Index to Appendix

	Page
Pertinent provisions of the Interstate Commerce Act as amended by the Transportation Act, 1920	1
Pertinent provisions of the Constitution of the State of California	6
Pertinent provisions of Public Utilities Act of the State of California	12
First Los Angeles Case (Railroad Commission of California v. Southern Pacific Co. et al., 264 U. S. 331	16
First Federal Commission Decision (Los Angeles Passenger Terminal cases, 100 I. C. C. 421)	29
Second Los Angeles Case (Interstate Commerce Commission v. U. S. ex rel. Los Angeles, 280 U. S. 52)	109

Appendix

PERTINENT PROVISIONS OF THE INTERSTATE COMMERCE ACT AS AMENDED BY THE TRANSPORTATION ACT, 1920.

(41 U. S. Stat. at Large, C. 91, pp. 476-478, Sec. 402, 49 U. S. C. A., Sec. 1, pars. (18) to (22), pars. (18) to (22) of Section 1 of Interstate Commerce Act.)

SEC. 402. The paragraphs added to section 1 of the Interstate Commerce Act by the Act entitled "An Act to amend an Act entitled 'An Act to regulate commerce,' as amended, in respect of car service, and for other purposes," approved May 29, 1917, are hereby amended to read as follows:

* * * * * * * * * *

"(18) After ninety days after this paragraph takes effect no carrier by railroad subject to this Act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this Act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this Act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future

public convenience and necessity permit of such abandonment.

"(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this Act shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

"(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, opera-

tion, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

"(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this Act, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this Act which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect

continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(22) The authority of the Commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation."

(41 U. S. Stat. at Large, C. 91, pp. 479-480, Sec. 405, 49 U. S. C. A.; Sec. 3, pars. (3) and (4), pars. (3) and (4) of Section 3 of Interstate Commerce Act.)

SEC. 405. * * * * * * *

The second paragraph of section 3 of the Interstate Commerce Act is hereby amended to read as follows:

"(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.

"(4) If the Commission finds it to be in the public interest and to be practicable, without substantially im-

pairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including mainline track or tracks, for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the Commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be."

PERTINENT PROVISIONS OF THE CONSTITUTION OF THE STATE OF CALIFORNIA.

(Const. of Cal., Art. XII, Secs. 22 and 23.)

SEC. 22. There is hereby created a railroad commission which shall consist of five members and which shall be known as the railroad commission of the State of California. The commission shall be appointed by the governor from the state at large; *provided,* that the legislature, in its discretion, may divide the state into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; *and provided, further,* that the three commissioners in office at the time this section takes effect shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the governor immediately after the adoption of this section, to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921. Whenever a vacancy in the office of commissioner shall occur the governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Commissioners appointed for regular terms shall at the beginning of the term for which they are appointed, and those appointed to fill vacancies, shall, immediately upon their appointment, enter upon the duties of their offices. The legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain

as now fixed by law. The legislature shall have the power, by a two-thirds vote of all members elected to each house, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this state, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said railroad commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of railroad commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated, pursuant to such inquiry, investigation or hearing, when approved or confirmed by the commission ordered filed in its office shall be deemed to be the order of the commission.

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between

the points named in any tariff of rates, established by said commission, than the rates, fares and charges which are specified in such tariff. The commission shall have the further power to examine books, records and papers of all railroad and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpoenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record; the commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies.

No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon the railroad commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the railroad commission in this constitution, and the authority of the legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this constitution.

The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and the "railroad commission act" of this state approved February 10, 1911, shall be construed with reference to this constitutional provision and any other constitutional provision becoming operative concurrently herewith. And the said act shall have the same force and effect as if the same had been passed after the adoption

of this provision of the constitution and of all other provisions adopted concurrently herewith, except that the three commissioners referred to in said act shall be held and construed to be the five commissioners provided for herein. (Amendment adopted October 10, 1911.)

SEC. 23. Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant, or equipment within this state, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the railroad commission as may be provided by the legislature, and every class of private corporations, individuals, or associations of individuals hereafter declared by the legislature to be public utilities shall likewise be subject to such control and regulation. The railroad commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the railroad commission respecting public

utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution. From and after the passage by the legislature of laws conferring powers upon the railroad commission, respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this state, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the railroad commission; *provided, however,* that this section shall not affect such powers of control over public utilities as relate to the making and enforcement of local, police, sanitary and other regulations, other than the fixing of rates, vested in any city and county or incorporated city or town as, at an election to be held pursuant to law, a majority of the qualified electors of such city and county, or incorporated city or town, voting thereon, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the railroad commission as provided by law; *and provided, further,* that where any such city and county, or incorporated city or town, shall have elected to continue any of its powers to make and enforce such local, police, sanitary and other regulations, other than the fixing of rates, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the railroad commission in the manner prescribed by the legislature; *and provided, further,* that this section shall not affect the right of any

city and county or incorporated city or town, to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. Nothing in this section shall be construed as a limitation upon any power conferred upon the railroad commission by any provision of this constitution now existing or adopted concurrently herewith. (Amendment adopted November 3, 1914.)

PERTINENT PROVISIONS OF PUBLIC UTILITIES ACT OF THE STATE OF CALIFORNIA.

(Statutes of California 1915, C. 91, p. 115.)

SEC. 13. (b) Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable (p. 122).

SEC. 22. (a) Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage and cars, loaded or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall make such interchange and transfer promptly without discrimination between shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded. Every railroad corporation shall receive from every other railroad corporation, at any point of connection, freight cars of proper standard and in proper condition, and shall haul the same either to destination, if the destination be upon a line owned, operated or controlled by such railroad corporation, or to point of transfer according to route billed, if the destination be upon the line of some other railroad corporation.

Nothing in this section contained shall be construed as in anywise limiting or modifying the duty of a common

carrier to establish joint rates, fares and charges for the transportation of passengers and property over the lines owned, operated, controlled or leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of the commission to require the establishment of such joint rates, fares and charges (p. 128).

SEC. 30. Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees (p. 132).

SEC. 31. The railroad commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the state and to do all things, whether herein specifically designated or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction (p. 132).

SEC. 36. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably

to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If the commission orders the erection of a new structure, it may also fix the site thereof. If any additions, extensions, repairs, improvements or changes, or any new structure or structures which the commission has ordered to be erected, require joint action by two or more public utilities, the commission shall notify the said public utilities that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at their joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, extensions, repairs, improvements or changes or new structure or structures, which each shall bear. If at the expiration of such time such public utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs, improvements or changes, or new structure or structures, the commission shall have authority, after further hearing, to make an order fixing

the proportion of such cost or expense to be borne by each public utility and the manner in which the same shall be paid or secured (p. 134).

FIRST LOS ANGELES UNION STATION DECISION OF SUPREME COURT OF THE UNITED STATES.

RAILROAD COMMISSION OF CALIFORNIA v. SOUTHERN PACIFIC COMPANY AND SOUTHERN PACIFIC RAILROAD COMPANY. (No. 283.)

RAILROAD COMMISSION OF CALIFORNIA v. ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY. (No. 284.)

RAILROAD COMMISSION OF CALIFORNIA v. LOS ANGELES AND SALT LAKE RAILROAD COMPANY. (No. 285.) (264 U. S. 331.)

Argued November 22, 1923. Decided April 7, 1924.

On writs of *certiorari* to the Supreme Court of California to review judgments annulling orders of the Railroad Commission, requiring the establishment of a union station. Affirmed.

See same case below, 190 Cal. 214, 211 Pac. 460.

The facts are stated in the opinion.

Mr. Chief Justice Taft delivered the opinion of the Court:

The question in this case is whether the State Railway Commission of California has power to require the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and the Salt Lake and Los Angeles Railway Company to build an interstate union depot in the city of Los Angeles.

The proceedings were begun in 1916 before the Railway Commission by complaints of civic associations and others against the railway companies. Before the hearing and the decision were had, the Transportation Act of Congress of February 28, 1920 (41 Stat. at L. 456, Chap.

91, Comp. Stat. Sec. 10,071¼, Fed. Stat. Anno. Supp. 1920, p. 72), was enacted. In December, 1921, after two hearings, an amended order against the railways was made, by which they were required to remove certain grade crossings and build a union terminal within a certain defined area in the city.

The railway companies sought review of this order in the Supreme Court of the state, and their three writs were heard and disposed of as one case. The Supreme Court of the state held that the order was beyond the power of the State Railway Commission, because the subject-matter was committed to the Interstate Commerce Commission by the Transportation Act of 1920. The Court further held that if the order had effected the elimination of grade crossings alone, it would have been valid; but that, associated, as it was, with the establishment of the union station, it must be annulled. We have brought the case of the Commission against each of the railways here by *certiorari*.

Lines of the three railways approach Los Angeles from the north, and come together in the city near the North Broadway viaduct as it crosses the Los Angeles River. Thence the Salt Lake and Santa Fe lines follow the bed of the Los Angeles River, one on its east and the other on its west bank. The Salt Lake passenger station is at First Street. Its main line from Pasadena and Glendale comes from the north, but its line from Salt Lake comes in from the south. From north to south in Los Angeles, its line hugs the east bank of the river for 3 miles. The Santa Fe station is opposite that of the Salt Lake Railway on the west bank. The Santa Fe hugs the west bank for 3 miles in the city. One of its lines

leaves Los Angeles by the north for Chicago. Another leaves the city by the south, through Riverside, for Chicago. The Southern Pacific does not follow the river bed after passing under the Broadway viaduct, but extends in a southwesterly direction until it reaches the north end of Alameda Street. From that point it runs south through the city at grade on that street. Its station is at Fifth street, and lies southwesterly from the Salt Lake and Santa Fe stations and a quarter of a mile distant from them. The eastern main line of the Southern Pacific crosses the river at Alhambra Avenue, joins the San Francisco main line, and reaches the station from there by the same tracks on Alameda Street. The Southern Pacific occupies Alameda Street on grade, and longitudinally in both directions from its station for 3 miles. Its lines toward the south go to San Pedro and Santa Ana.

The order of the Railroad Commission requires the abandonment of the passenger stations of the three railways. The Southern Pacific station is a comparatively modern depot and would be adequate for many years. Those of the other two companies are not adequate, but they have ample ground upon which to construct suitable stations. The order required the removal from Alameda Street of the main line of the Southern Pacific for 3 miles, permitting the use of its tracks in that street for switching during a few hours at night. The order also required that, by viaducts over the river and over the Salt Lake and Santa Fe tracks on the river banks, grade crossings should be eliminated. The order further required that the three railways should purchase jointly land enough in an area reaching from Alameda Street to the river

and from Aliso Street to Alhambra Street to erect a suitable union station, to be situated somewhere near a square called the Plaza. The railways are directed to make such additions to, extensions of, improvements and changes in, the existing railroad facilities of said companies, as may be reasonably necessary and incidental to the use of said union passenger station. This would require the removal of the present station of the Southern Pacific from Fifth street toward the Plaza, at least half a mile, and the stations of the Santa Fe and the Salt Lake from First street, on the river, to the Plaza, more than a quarter of a mile. The changes to be effected under the order will require, in the abandonment of the Southern Pacific main track on Alameda street for 3 miles, a joint use by the Southern Pacific of main tracks on the river bank with either the Salt Lake or the Santa Fe, or the construction of its own main tracks on one side or the other along the river bank. The main tracks of the Salt Lake must be extended across the Los Angeles River on a viaduct to the area selected for the union station. The main track of the Santa Fe runs along the river side of the selected area, but an extension of its main tracks will have to be made to bring it into the new station.

The order requires the joint use of land, tracks, and terminal facilities valued at $28,050,691; the abandonment of three existing passenger stations of the railways as such, and the ultimate capital expenditure for all recommendations of from $25,000,000 to $45,000,000.

The Railroad Commission, in the Supreme Court of the state, pressed the argument that, in view of its findings that the union station was an indispensable element in

getting rid of the grade crossings, it had the incidental right to order its building. The Court rejected the argument. It said: "that notwithstanding the views expressed by the Railroad Commission in its findings and conclusions in the proceeding herein presented for review, we can perceive no indispensable relation between the elimination of grade crossings and the establishment of union depot facilities, nor can we see an insurmountable difficulty why jurisdiction over the matter of eliminating grade crossings may not be exercised in a proper case consistently, and it may be concurrently, with the exercise of the authority which is vested by the Act of Congress of 1920 in the Interstate Commerce Commission over the subject of union terminal depot facilities." (190 Cal. 214, 211 Pac. 465.)

The State Supreme Court thus modifies the findings of the Railroad Commission in so far as they sought to tie the validity of its order establishing a union station to its unquestioned police power to regulate grade crossings in the interest of the public safety. We avoid any inquiry how far, if at all, the principle laid down in *Erie R. Co. v. Public Utility Comrs.*, 254 U. S. 394, 65 L. Ed. 322, P. U. R. 1921C, 143, 41 Sup. Ct. Rep. 169, is qualified by the provisions of the Transportation Act. Our only question here is whether the power to direct a new union station, with its essential incidents, is committed exclusively to the Interstate Commerce Commission under the Act of 1920.

In *Dayton-Goose Creek R. Co. v. United States*, decided January 7, 1924 (263 U. S. 456, *ante*, 388, 33 A. L. R. 472, 44 Sup. Ct. Rep. 169), this court said of the Transportation Act:

"The new act seeks affirmatively to build up a system of railways prepared to handle promptly all the interstate traffic of the country. It aims to give the owners of the railways an opportunity to earn enough to maintain their properties and equipment in such a state of efficiency that they can carry well this burden. To achieve this great purpose, it puts the railroad systems of the country more completely than ever under the fostering guardianship and control of the (Interstate Commerce) Commission, which is to supervise their issue of securities, their car supply and distribution, their joint use of terminals, their construction of new lines, their abandonment of old lines, and by a proper division of joint rates, and by fixing adequate rates for interstate commerce, and, in case of discrimination, for intrastate commerce, to secure a fair return upon the properties of the carriers engaged." New England Divisions Case (*Akron C. & Y. R. Co. v. United States)* 261 U. S. 184, 67 L. Ed. 605, 43 Sup. Ct. Rep. 270; *Railroad Commission v. Chicago B. & Q. R. Co.*, 257 U. S. 563, 66 L. Ed. 371, 22 A. L. R. 1086, 42 Sup. Ct. Rep. 232.

On the one hand it is urged that, with the purposes thus declared, the act commits to the supervision and control of the Interstate Commerce Commission such an undertaking as is here in question, involving a new capital investment of from twenty-five to forty-five millions of dollars in the terminals of three great interstate railway systems in the largest city of our western coast. On the other hand, it is earnestly contended that, since no specific provision is made for the supervision of interstate union stations by the Interstate Commerce Commission, the whole subject remains in the control of the state railroad

commissions. We must examine the sections of the act in some detail to determine the force of these counter contentions.

The term "railroad" is defined in the act, paragraph 3, section 1, section 400, to include all switches, spurs, tracks, terminals and terminal facilities of every kind, used or necessary in the transportation of persons or property, including freight depots, yards, and grounds used therein. Section 402, after defining the term "car service" under the act as including use, control, distribution, and exchange of locomotives, cars and other vehicles used in interstate transportation, provides for just regulation of it by the Commission, and gives that body power, in case of shortage of equipment or other emergency, to suspend the regulations, to give just directions, without regard to ownership, to promote the service and to adjust proper compensation for its use and "to require such joint or common use of terminals," including main track or tracks for a reasonable distance outside of such terminals, as, in the opinion of the Commission, will meet the emergency and the public interest, and, upon hearing determine just compensation for use of same. Paragraph 16 authorizes the Commission to provide transportation by other carriers if one carrier is unable to handle its traffic, upon terms fixed by the Commission.

By section 405, amended section 3 of the Interstate Commerce Act provides in its third paragraph that all carriers shall afford all reasonable facilities for the interchange of traffic between their respective lines and for forwarding and delivering passengers. Paragraph 4 provides that the Commission may, in the public interest, and without impairment of a carrier's power to handle

its own business with its terminal facilities, require the use of its terminal facilities, including its main-line track or tracks for a reasonable distance outside of its terminal for another carrier or carriers, upon such terms as may be agreed upon by the parties, fixed by the Commission, or determined by suit, as in condemnation proceedings.

It is obvious from the foregoing that Congress intended to place under the superintending and fostering direction of the Interstate Commerce Commission all increased facilities in the matter of distribution of cars and equipment and in joint terminals, in the exchange of interstate traffic and passengers between railways so as to make it prompt and continuous. It not only provides for the temporary expropriation of terminals and main track of one railway to the common use of one or more other railways in an emergency, but it also contemplates the compulsory sharing of one company's terminals with one or more companies as a permanent arrangement. This is a drastic limitation of a carrier's control and use of its own property in order to secure convenience and despatch for the whole shipping and traveling public in interstate commerce. It gives to the Interstate Commerce Commission the power and duty, where the public interest requires, to make out of what is the passenger and freight station of one interstate carrier, a union station or depot.

But it is insisted that the supervisory power thus conferred does not include the installation of an interstate union station, where its terminals and main tracks are newly built, and the interstate carriers are compelled to expropriate, not the terminal property of another interstate carrier, but property of others than carriers,

not theretofore used for terminals. This would be giving power to the Interstate Commerce Commission to provide for a small and contracted union station of interstate carriers, limited to the terminals of one carrier, and would leave the larger and more important union stations of interstate carriers to the control of state commissions. We think, however, that means of control over installation of such new union stations for interstate carriers is given to the Interstate Commerce Commission in amended paragraphs (18 to 21) of section 402. They provide that no interstate carrier shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation over such additional or extended line of railroad, unless and until the Commission shall certify that public convenience, present or future, requires it; and that no carrier shall abandon all or any portion of its line, or the operation of it, without a similar certificate of approval. Such a certificate is, we think, necessary in the construction of a new interstate union station, which involves a substantial and expensive extension of the main tracks or lines of interstate carriers who theretofore have maintained separate terminals.

It is argued that paragraphs 18 to 21, of section 402, refer only to extensions of a line of railroad having the purpose to include new territory to be served by the interstate carrier, and do not refer to an extension of new main track for the mere purpose of rearranging terminals within the same city. We do not think the language of paragraphs 18 to 21 can be properly so

limited. We are confirmed in this by paragraph No. 22 which immediately follows:

"The authority of the Commission conferred by paragraphs 18 to 21, both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one state, or of street, suburban, or interurban electric railways which are not operated as a part or parts of a general steam railroad system of transportation."

This is a palpable distinction between the main tracks of an interstate carrier, and its spur, industrial, switching, or side tracks, and shows the legislative intention to retain any substantial change in the main tracks within the control of the Interstate Commerce Commission. It may well be that a mere relocation of a main track of an interstate carrier which does not involve a real addition to, or abandonment of, main tracks and terminals, or a substantial change in destination, does not come within paragraphs 18 to 21. One might, too, readily conceive of railroad crossings or connections of interstate carriers in which the exercise by a state commission of the power to direct the construction of merely local union stations or terminals without extensions of main tracks and substantial capital outlay should be regarded as an ordinary exercise of the police power of the state for the public convenience, and would not trench upon the power and supervision of the Interstate Commerce Commission in securing proper regulation of an interchange of interstate traffic or passengers. Only a lawful order of the Interstate Commerce Commission would raise a question of the power of a state commission in such cases, as the proviso

of paragraph 17, section 402, of the Transportation Act, shows:

"That nothing in this act shall impair or affect the right of a state in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this act."

But there is a great difference between such relocation of tracks or local union stations and what is proposed here. The differences are more than that of mere degree; they and their consequences are so marked as to constitute a change in kind. They come within paragraphs 18 to 21 of section 402, and require a certificate of the Interstate Commerce Commission as a condition precedent to the validity of any action by the carriers, or of any order by the State Commission.

The proviso of paragraph 21 of section 402 is significant of the distinction we are pointing out. It forbids the Commission to authorize or order the extension of its lines "unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension * * * that the expense involved therein will not impair the ability of the carrier to perform its duty to the public."

The extensions of the lines and main tracks of these railways under the plan which the State Commission has ordered are not great in distance, but they involve a new intramural destination for each railway, with important changes in the handling of interstate traffic and passengers. Great expense attends such changes of

the main tracks in a crowded city, and they here carry with them, as necessarily incident thereto, the abandonment of available sites and of valuable existing passenger and freight stations, and the construction of a new union station elsewhere, imposing on the three railways a cost in making the changes of from twenty-five millions to forty-five millions of dollars. We think it clear that, in such an extension of main lines with their terminals, the Interstate Commerce Commission is required by the act to make a finding that the expense involved will not impair the ability of the carriers concerned to perform their duty to the public.

The purpose of Congress to prevent interstate carriers from incurring expense which will lessen their ability to perform well their interstate functions is further shown in section 439 of the Transportation Act, whereby the Interstate Commerce Act is amended by insertion of section 20a. This new section subjects to the approval or rejection of the Interstate Commerce Commission the issue by an interstate carrier of all future shares of stock, bonds, or other evidence of indebtedness, and forbids approval unless the Commission shall find that their issue is for a lawful purpose, is compatible with the public interest, is appropriate and necessary to the discharge of its public duty as a common carrier, and will not impair its ability to perform that service. This is, of course, *in pari materia* with the restriction of paragraph 21 of section 402, to prevent a possible impairment of the financial ability of interstate carriers to discharge their interstate commerce duties. Such a heavy burden as that involved in this new union station and the main track changes and extensions and

other accessories would, in all probability, require the three railways to issue new capital securities, and this could not be done without the approval of the Interstate Commerce Commission. To be sure, this provision only becomes operative when securities have to be issued, and would not, of itself, prevent action by a state commission until such securities are seen to be necessary; but the provision indicates the general congressional plan.

We were advised by statements at the bar after the California Supreme Court handed down its decision in this case, the city of Los Angeles filed a petition with the Interstate Commerce Commission, asking for an order to provide, maintain, and use a union station; that a hearing followed, and that, pending the decision in this Court, the matter is held under consideration.

For the reasons given, we think the course taken by the city of Los Angeles was the correct one. Until the Interstate Commerce Commission shall have acted under paragraphs 18 to 21 of section 402 of the Transportation Act, the respondent railways can not be required to provide a new interstate union station, and to extend their main tracks thereto, as ordered by the State Railroad Commission.

The judgment of the Supreme Court of California is affirmed.

FIRST LOS ANGELES UNION STATION DECISION OF THE INTERSTATE COMMERCE COMMISSION.

LOS ANGELES PASSENGER TERMINAL CASES

No. 14778[1]

CITY OF LOS ANGELES v. LOS ANGELES & SALT LAKE RAILROAD COMPANY ET AL.

Submitted February 27, 1925.

Decided July 6, 1925.

---

1. Public convenience and necessity found to permit the abandonment of operation of all passenger and freight train service, except industrial freight switching service, on the main line of the Southern Pacific on Alameda Street from College Street to East Fifteenth Street, inclusive, in the city of Los Angeles, California.

2. Public convenience and necessity found not to require the construction of new or extension of existing lines of railroad in the city of Los Angeles, California, by the Southern Pacific and the Los Angeles & Salt Lake, as described in the application in Finance Docket No. 3569. Application denied.

3. The extension by defendants of their respective main lines of steam railroad so as to reach and serve such union passenger station and terminal as they may

---

(1) This report also embraces Finance Docket No. 3556, In the Matter of the Application of Southern Pacific Company and Southern Pacific Railroad Company for certificate of public convenience and necessity, and Finance Docket No. 3569, In the Matter of the Application of Southern Pacific Company, Southern Pacific Railroad Company, and the Los Angeles & Salt Lake Railroad Company for certificate of public convenience and necessity.

construct and establish in a described portion of the city of Los Angeles, California, in accordance with a lawful order of the Railroad Commission of California, and the extension of such main lines to provide for rearrangement of their respective passenger and freight routes incidental to the convenient and proper operation of such union station and terminal, found reasonably required in the interest of public convenience and necessity and the expense involved therein found not to impair the ability of said defendants to perform their respective duties to the public.

4. In addition to the abandonment of train service on Alameda street as above authorized, public convenience and necessity found to permit the abandonment by defendants of such portions of their lines of steam railroad, or of all or any portion of the interstate service thereon, as may be incidental to the rearrangement of routes, tracks, and terminal facilities necessitated by the establishment of a union passenger station and terminal as indicated.

5. Joint use by defendant steam railroads of such main-line tracks of each other as may be incidental, and necessary or convenient, to the proper operation of a union passenger depot and terminal established as above indicated found to be in the public interest and to be practicable, without substantially impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

6. Jurisdiction of No. 14778 and Finance Docket No. 3556 retained for the purpose of making such further

findings and orders and issuing such certificates as the record warrants.

Jess E. Stephens, Max Thelen, and *Milton Bryan* for city of Los Angeles; and *Hugh Gordon, Carl I. Wheat,* and *Woodward M. Taylor* for Railroad Commission of the State of California.

William W. Clary for Central Development Association; *Gurney E. Newlin* for Central Development Association, Business Men's Cooperative Association, Lincoln Heights Board of Trade, Broadway Improvement Association, North Main Street Improvement Association, and Greater Los Angeles Improvement Council, interveners.

C. W. Durbrow for Southern Pacific Company and Southern Pacific Railroad Company; *A. S. Halsted, Fred E. Pettit, Jr., H. A. Scandrett,* and *J. M. Souby* for Los Angeles and Salt Lake Railroad Company and Union Pacific Railroad Company; *E. W. Camp, T. J. Norton, F. E. Andrews,* and *M. W. Reed* for Atchison, Topeka and Santa Fe Railway Company; and *Frank Karr* for Pacific Electric Railway Company.

Spencer Thorpe for W. H. Daum and *George H. Dunlop* for Municipal League of Los Angeles, interveners.

REPORT OF THE COMMISSION

ATCHISON, *Chairman:*

The city of Los Angeles is a municipal corporation of the State of California and complainant in No. 14778. Defendants are railroads engaged in interstate transportation of passengers and freight, and enter Los Angeles. The city asks that the Commission direct defendants (1) to construct, operate, and use a union passenger depot

within a defined area in that city, and to acquire land necessary therefor; (2) to abandon main-line passenger and freight service, except local freight switching, on and along a portion of Alameda street in Los Angeles; (3) to eliminate and abandon certain railroad grade crossings in the city; and (4) to construct or acquire such structures, tracks, and facilities, to construct or abandon such lines or facilities of operation, and to arrange for such joint or other use of existing tracks, or tracks to be constructed within the city of Los Angeles, as may be reasonably necessary and incidental as a part of and in furtherance of the foregoing. The only relief sought against defendant Pacific Electric Railway is the participation by it in the expense of constructing a viaduct at Aliso street in Los Angeles to eliminate grade crossings on both banks of the Los Angeles River.

In Finance Docket No. 3556 the Southern Pacific Company and its lessor, Southern Pacific Railroad Company ask for a certificate of public convenience and necessity authorizing the abandonment of 0.15 mile of main-line track, and the abandonment of operation of passenger and freight train service (except freight switching service) on 6.6 miles of main-line track on Alameda street. In Finance Docket No. 3569 the Southern Pacific Company, Southern Pacific Railroad Company, and Los Angeles and Salt Lake Railroad Company ask for a certificate of public convenience and necessity authorizing applicants to construct certain new main lines and to extend their existing main lines of railroad in Los Angeles so as to permit the joint use and operation by these applicants of the existing passenger station of the Southern Pacific at Fifth street and Central avenue, and so as

to permit the removal of Southern Pacific passenger and freight trains, except industrial switching, from Alameda street. The Railroad Commission of the State of California appeared in support of the complaint, and with the city intervened in opposition to the relief sought by applicants. There were other interventions for or against the complaint.

HISTORY OF PROCEEDINGS.

The matters involved originated in complaints filed with the Railroad Commission of California in 1916, which asked that body to order the elimination of certain grade crossings in Los Angeles. At least one complaint sought to require the three steam lines to provide and use a union passenger station. On June 11, 1917, the Supreme Court of California upheld the jurisdiction of the Railroad Commission to order the separation of grades, which had been questioned, and directed it to consider and determine the complaints upon the merits. *Civic Center Association v. Railroad Commission,* 175 Cal. 441.

The jurisdiction of the Railroad Commission to enter an order for a union station was not then questioned. Following exhaustive investigation by its engineers, and after numerous hearings, the Railroad Commission on April 26, 1921, made its decision, known as No. 8901, 19 Cal. R. R. Com. 740. The Railroad Commission ordered the defendant railroad companies to file plans for the elimination of specified railroad grade crossings along the Los Angeles River, and for the erection of a union passenger station at some site within a defined area in the vicinity of the Plaza in Los Angeles; and upon the completion thereof to remove all passenger traffic and all

freight traffic except local freight switching from a designated portion of Alameda street. The Plaza is a small circular park, which marks the center of the original pueblo of Los Angeles. During the hearings which culminated in the order just described, applicants sought the Railroad Commission's approval of the execution of a plan generally similar to that now proposed in our Finance Dockets No. 3556 and No. 3569. This application was consolidated with the earlier proceedings mentioned for hearing and decision, and was subsequently dismissed by the Railroad Commission.

Subsequent to the issuance of Decision No. 8901, the city council of the city of Los Angeles, which had taken no position as to the necessity of a union station, formally approved, endorsed, and accepted the decision as determinative, and in the proceedings which followed appeared in support of the Railroad Commission's findings and order.

Following a rehearing of Decision No. 8901, had on petition of the railroad companies, the Railroad Commission on December 6, 1921, issued its Decision No. 9838 modifying the previous conclusions. 20 Cal. R. R. Com. 937. Briefly, the later decision ordered the carrier to proceed to procure sufficient grounds for a union passenger station within a defined area, to prepare and submit plans for such union station, passenger terminal, and necessary facilities, and upon approval of the plans by the Commission, to proceed with the construction of such station and terminal. Similar orders were included for the elimination of specified grade crossings.

Each of the three steam lines thereupon took the Railroad Commission's decision and order to the Supreme

Court of California. On December 19, 1922, that Court in *Atchison, T. & S. F. Ry. Co. v. Railroad Commission,* 190 Cal. 214, held that the transportation act, 1920, vested full power and authority over the matter of union terminal depot facilities of interstate carriers by railroad in the Interstate Commerce Commission, and divested the Railroad Commission of California of the jurisdiction sought by it to be exercised in the proceedings and order presented for review. Upon petition of the Railroad Commission, the Supreme Court of the United States granted writs of *certiorari* in these matters.

The city of Los Angeles thereupon filed with this Commission the complaint in No. 14778. Hearing thereon was had in July, 1923, and a complete transcript of the testimony before the State Commission received as a part of the evidence. Argument and submission was deferred until the decision of the Supreme Court of the United States. That body on April 7, 1924, affirmed the judgment of the Supreme Court of California, and held that a certificate of public convenience and necessity from this Commission was necessary in the construction of a new interstate union station, involving a substantial and expensive extension of the main tracks or lines of interstate carriers who theretofore have maintained separate terminals, such as the State Commission proposed to require. *R. R. Comm. v. Southern Pac. Co.,* 264 U. S. 331. In concluding, the Supreme Court used the following language:

> We were advised by statements at the bar that after the California Supreme Court handed down its decision in this case, the city of Los Angeles filed a petition with the Interstate Commerce Commission asking for an order to provide, maintain and use a

union station, that a hearing followed and that, pending the decision in this Court, the matter is held under consideration.

For the reasons given we think the course taken by the city of Los Angeles was the correct one. Until the Interstate Commerce Commission shall have acted under paragraphs 18 to 21 of section 402 of the Transportation Act,[2] the respondent railways can not be required to provide a new interstate union station and to extend their main tracks thereto as ordered by the State Railroad Commission.

Subsequent to the issuance of this decision the Southern Pacific and the Salt Lake filed the above-mentioned applications in Finance Dockets Nos. 3556 and 3569. These applications were consolidated with No. 14778, and the evidence previously received in the latter case made available in the finance proceedings also. Hearing of the consolidated cases was had in June, 1924.

Jurisdiction.

Jurisdictional questions arise at the outset. Defendants deny our authority to require the construction of a union station as sought by the complaint in No. 14778. Complainant contends that Congress has reposed that authority with us. All parties concede that if we have the power to require the construction of a union station, it has come in the Transportation Act, 1920. Prior to that enactment such power was clearly in the states. In numerous instances states had by constitution or statute delegated power to their railroad commissions to require the construction and operation of union stations. In such

(2) These are paragraphs similarly numbered, now a part of section 1 of the Interstate Commerce Act.

cases, where the facts reasonably come within the legislative enabling act, the state Courts have upheld orders of the state commissions. The state Courts have held the order could not be defeated (1) by showing that compliance would require a railroad to acquire additional property by the exercise of the power of eminent domain, (2) or because it contemplated the abandonment by some railroads of their existing passenger stations and other passenger facilities, (3) or because compliance would require a railroad to acquire the right to use the property of a rival railroad.[3]

Careful study of the Interstate Commerce Act convinces us that Congress has not conferred upon us authority to require carriers to construct union passenger stations under conditions such as are here present. We are not considering a case where prejudice or discrimination is involved. There is no language in the act apt for the purpose. The provision in section 3, paragraph (4) for joint use of terminal facilities expressly covers only facilities existing when the requirement is made. The Supreme Court concedes this in *R. R. Comm. v. Southern*

(3) Cases in point are *State ex rel. Railroad Commissioners v. Atlantic Coast Line R. Co.*, 67 Fla. 441; *Griffin v. Southern Ry. Co.*, 150 N. C. 312; *Corporation Commission v. Seaboard Air Line Ry. Co.*, 161 N. C. 270; *North Carolina Corporation Com'n. v. Southern Ry. Co.*, 185 N. C. 435; *Missouri, K. & T. Ry. Co. v. State*, 38 Okl. 401; *Gulf, Colorado & S. F. Ry. Co. v. State* (Tex. Civ. App.), 167 S. W. 192; *State v. St. Louis Southwestern Ry. Co.* (Tex Civ. App.), 199 S. W. 829; *Railroad Commission of Alabama v. Northern Alabama Ry. Co.*, 182 Ala. 357; *Railroad Commission of Alabama v. Alabama Great Southern Ry. Co.*, 185 Ala. 354; *Mayor and Aldermen of Worcester v. Norwich & Worcester Railroad Co.*, 109 Mass. 103; *State v. St. Louis Southwestern Ry. Co.* (Tex. Civ. App.), 165 S. W. 491; *Wisconsin, Minnesota & Pacific Co. v. Jacobson*, 179 U. S. 287, 302 (Switch connection); *Missouri, O. & G. Ry. Co. v. State*, 29 Okl. 640; *Chicago, R. I. & Pac. Ry. Co. v. State*, 90 Okl. 173.

Pacific Co., supra, and as warrant for the control which it states we have over the larger and more important new terminal projects refers directly (page 344) to paragraphs (18) to (21) of section 1. Paragraph (18) forbids the extension, construction, acquisition, operation, or abandonment of any line of railroad by any carrier subject to the act without first securing from us an appropriate certificate of convenience and necessity. Paragraph (19) provides for the procedure upon application for certificate, and paragraph (20) for the issuance of certificates and the enforcement of paragraphs (18) and (19). Paragraph (21) empowers us to authorize or require a carrier by railroad subject to the act to provide itself with safe and adequate facilities for performing as a common carrier its car service, and to extend its line or lines. The same paragraph also provides a penalty for noncompliance with orders made by us in pursuance thereof.

The term "car service" as used in the act relates to *vehicles* used in the transportation of *property.* The authority to require a carrier to extend its line may include authority to require it to construct stations necessary and incidental thereto. That question is not now before us. But assuming such authority, we conclude that paragraph (21) does not empower us to order the construction of a union passenger station where, as here, the station would be the principal thing and the extension of lines the incident.

Complainant argues that we have power to make the order prayed for under paragraph (3) of section 3, which provides, in part, that carriers "shall, according to their respective powers, afford all reasonable, proper, and

equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, * * *." Assuming that this provision makes it the duty of carriers to maintain union-station facilities in a case where separate facilities would not be reasonable and proper, we must still look elsewhere for authority to require them to provide such facilities. Such authority is necessarily different from the right to award damages for violation of provisions of the act.

If recourse be had to our duty under section 12 to enforce the provisions of the act, or to our power under section 15 to determine and prescribe what "practice" in lieu of that found in violation of the act will thereafter be just, fair, and reasonable, we are met by the decision of the Supreme Court in *United States v. Pennsylvania R. R. Co.*, 242 U. S. 208. The case arose before the Transportation Act, 1920, and does not involve any additions or changes in our jurisdiction made by that act. In the case under review our order required defendant to provide and furnish tank cars for the interstate shipment of oil from certain refineries. In affirming the judgment of the lower Court enjoining our order the Supreme Court particularly referred to section 12 and stated that it was the duty of carriers both under the original act to regulate commerce of 1887 and the amendment of 1906 to furnish the instrumentalities of transportation, but indicated that jurisdiction to enforce the duty was in the Courts and not in us. (p. 227.)

The Court especially referred to the word "practices" as used in section 15 of the act, and to the contention

that the neglect to provide or the refusal to furnish tank cars was an unlawful "practice," the discontinuance of which we could require. The Court concluded that the collocation of the term with "classifications" and "regulations" was intended to confine it to acts or conduct having the same purpose as its associates, and that it was not to be understood in the broad sense contended. The Court noted that a contrary conclusion would apparently give us power to order enlargement of terminal facilities, increase in the number of locomotives, and extension of tracks or branches. After stating that if Congress had intended such consequence "it would not have left its intention to be evolved from obscure language but would have put it in explicit declaration and with notice and time for accommodation to it," the Court said:

> It is difficult to particularize all that the ruling of the Commission implies of power. What of omission or commission in the carrier's relation to the public may not be said to be a practice or practices in the broad sense attempted to be given to those words? A railroad's powers are its duties, bearing of course, obligations; and all of them by the asserted construction are swept under the jurisdiction of the Commission—so swept by a single word, not of itself apposite, and determined besides, by its association, against the contention. This was apparent to the dissenting commissioners and repelled their concurrence. Well might they have recoiled from going to such extreme upon doubtful implication and have been impelled to declare as they did declare that if such power was given it logically and necessarily extended to every facility of transportation.

In the *Selma Station Case, North Carolina Corporation Commission v. Southern Ry. Co., supra,* the Supreme

Court of North Carolina considered the effect of the passage of the transportation act upon an order theretofore entered by the corporation commission requiring two railroad companies to erect a joint station at a junction of their roads. In deciding in favor of the validity of the state commission's order the Court, at page 459, said in part:[4]

---

(4) Further in considering the intent of Congress as expressed in the statute, the opinion proceeds:

"While the Esch-Cummins bill was being debated on the floor of the House of Representatives, Congressman McClintic of Oklahoma offered the following amendment (Congressional Record, November 15, 1919, p. 9067):

'Provided further, that the Commission is hereby given authority to require a carrier to maintain his present arrangement or to make new arrangements relative to the joint use of depots, upon such terms as shall be found by the Commission to be just and reasonable. No carrier shall be allowed to discontinue the use of a depot in connection with another carrier until proper application has been made to the Commission.'

The purpose of this amendment, as explained by Congressman McClintic (pages 9067, 9068) was to give the Interstate Commerce Commission jurisdiction over union passenger depots, largely for the purpose of preventing the railroad companies from tearing apart the unification of passenger depots so extensively established by the government during the federal operation of the railroads. Chairman Esch opposed the adoption of the amendment on the ground that jurisdiction over such matters had always been vested in the various states and should continue to be exercised by them. Chairman Esch said (Congressional Record, November 15, 1919, p. 9068):

'Mr. Chairman, the matter which the gentleman from Oklahoma seeks to reach by his amendment lies almost wholly within the police power of the several states. There have been amendments offered to this bill seeking to preserve such police powers. The committee in framing the bill has sought not to encroach upon such powers. The matters of depots and joint use of depots is practically in the jurisdiction of the state commissions, and all but one of the states have such commissions. In such small matters the detail should be left within the jurisdiction of the state authorities, who know the situation, know the conditions, and know how best to meet the needs. There is, however, a provision in this bill providing for the joint use of terminals.'

Mr. McClintic thereupon offered to withdraw the amendment, but another member insisted on having a vote thereon. Thereafter

> We have examined the act of 1920 carefully, and we do not find any provision therein which grants to the Interstate Commerce Commission, either expressly or by clear implication, the power, or which makes it its duty, to require the erection of passenger stations. It is not claimed in this case that such an order has been made by the Interstate Commerce Commission. The right of the state, then, to act in this particular is expressly preserved to it by Transportation Act of 1920, page 402, subsec. 17 (41 Stat. at Large, p. 477) as follows: "*Provided, however,* That nothing in this act shall impair or affect the right of a state, in the exercise of its police power, to require just, and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this act."

These conclusions are strengthened by scrutiny of the opinion of the Supreme Court in *R. R. Comm. v. Southern Pac. Co., supra,* and which seems to determine the extent to which action by us under the provisions of the transportation act is necessary in such instances as that now presented.

In referring to the construction of new union passenger terminals which require the expropriation by carriers of property of third persons, the expression of the Supreme Court (italics ours) is that "*means of control* over instal-

---

his amendment, which would have conferred upon the Interstate Commerce Commission jurisdiction over union passenger depots, was rejected. Congressional Record, November 15, 1919, p. 9071. This would seem to indicate that the Congress saw fit to leave the federal commission without jurisdiction, understanding that the matter of union stations would continue within the jurisdiction of the state commissions."

lation of such new union stations for interstate carriers is given to the Interstate Commerce Commission in amended paragraphs (18 to 21) of section 402." After stating the substance of those paragraphs, the Court continues: "such a certificate is, we think, necessary in the construction of a new interstate union station *which involves a substantial and expensive extension of the main tracks or lines* of interstate carriers who theretofore have maintained separate terminals." The Court then makes clear that the paragraphs mentioned include the extension of new main track for the purpose of rearranging terminals, and continues:

> One might, too, readily conceive of railroad crossings or connections of interstate carriers in which the exercise by a state commission of the power to direct the construction of merely local union stations or terminals without extensions of main tracks and substantial capital outlay should be regarded as an ordinary exercise of the police power of the state for the public convenience and would not trench upon the power and supervision of the Interstate Commerce Commission in securing proper regulation of an interchange of interstate traffic or passengers. Only a lawful order of the Interstate Commerce Commission would raise a question of the power of a state commission in such cases, as the proviso of paragraph 17, section 402 of the Transportation Act shows:
>
> "That nothing in this act shall impair or affect the right of a state, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this act."

> But there is a great difference between such relocation of tracks or local union stations and what is proposed here. The differences are more than that of mere degree; they and their consequences are so marked as to constitute a change in kind. They come within paragraphs 18 to 21 of section 402 and require a certificate of the Interstate Commerce Commission as a condition precedent to the validity of any action by the carriers or of any order by the State Commission.

The Court then notes the findings prerequisite to the issuance by us of a certificate for the extension of lines. It comments on the important changes and the considerable expense involved in providing a union station in Los Angeles, and adds:

> We think it clear that in such an extension of main lines with their terminals the Interstate Commerce Commission is required by the act to make a finding that the expense involved will not impair the ability of the carriers concerned to perform their duty to the public.

We conclude that we are not empowered to require the construction of a union passenger station as sought in No. 14778. To make the record clear, we repeat that no question of discrimination or preference is presented here; and that under the issue framed in the complaint in No. 14778 we will give no consideration to matters shown of record for the purpose of determining whether we should issue an order *requiring* the construction and use of a union station by any of the defendants. With respect to the remaining issues before us, we are authorized to find (1) whether the present or future public convenience and necessity permit of the proposed abandon-

ments of line, (2) whether the proposed extensions of line are reasonably required in the interest of public convenience and necessity, and whether the expense involved therein will impair the ability of defendants to perform their duties to the public, and (3) whether such joint use of existing terminal facilities by other than the owning carrier, as would be necessary if a new union passenger terminal were established in the plaza area, is in the public interest and practicable, without substantially impairing the ability of the owning carrier to handle its own business. With these issues in mind we will examine the evidence.

Physical Situation.

A somewhat detailed description of the physical and topographic situation is necessary, and will be set out as Appendix 1 to this report. The places specified in this report are within California, except as otherwise stated; and the streets and highways referred to are within Los Angeles except as may be distinctly stated otherwise.

Grade Crossings.

Alameda Street is the principal north and south street through the industrial section of Los Angeles. The presence on that street for practically its whole length of the Southern Pacific double-track main line at grade results in a grade-crossing situation which all parties agree is a constant danger to life and limb and a serious inconvenience to an extremely heavy east and west urban traffic. The plans here presented for our approval by both complainants and the carriers provide for the removal of all train service from Alameda Street except

local freight switching for industries along or reached by that street, which constitutes about 3 per cent of the present freight traffic. In accomplishing this object, complainant's plan would provide for the abandonment of the present Arcade Station of the Southern Pacific and for the erection of a new union passenger station at another location. Under the plan of the Salt Lake and Southern Pacific the Arcade Station would be converted into a joint station with the Salt Lake, to be reached from the east bank of the river over a viaduct extending west across the river and industrial section to the Sixth Street end of the station.

In addition to the crossings of Macy and Aliso Streets at grade by the Santa Fe detailed in the appendix, that carrier similarly crosses at grade North Main, Seventh, and Ninth Streets on the west bank of the river. Seventh Street is a particularly important east and west thoroughfare. On the east bank of the river the Salt Lake crosses at grade all five of the streets named. At present there are viaducts across the river and river-bank tracks at North Broadway, North Spring, First, and Fourth Streets, but the North Spring Street and First Street viaducts are not adequately constructed and will soon require replacement or removal.

The report of the Railroad Commission's engineers recommended the elimination of all important grade crossings on both banks of the river by depression of the tracks and by improvement of existing viaducts or construction of new viaducts across the river and the adjacent tracks. They recommended that all the streets named be so treated except North Spring Street, and the latter crossing was to be entirely eliminated.

While all parties agree that the grade crossings along Alameda street and along the river should be eliminated, complainant seeks to have the union station question determined before undertaking the extensive construction of viaducts. It contends that the design of the viaducts and the extent of track depression will vary dependent upon whether the carriers' plans for a joint station or its own plans for a union station are approved. Should a union station be erected on some one of the sites suggested to the California Commission or to us, the design of certain viaducts would be changed in degrees varying from a small to a substantial extent. This would not be true as to all crossings. The California Commission on April 21, 1924, ordered the separation of grades at the Ninth Street river crossing, on the theory that the proposed structure would not interfere with any comprehensive plan for dealing with the grade crossing and traffic problems theretofore or at present proposed in proceedings before that body or before us. Plans for a viaduct at Macy Street were to be submitted to that Commission by July 15, 1924.

NEED FOR NEW OR ADDITIONAL STATION FACILITIES.

The present Southern Pacific Arcade Station was built to replace an earlier structure, and was completed in 1915 at a cost of $646,428, including appurtenances except coach yard structures. The station grounds include most of the land bounded by Alameda Street on the east, Central Avenue on the west, and Fourth and Sixth Streets on the north and south, respectively. The station building itself fronts on Central Avenue and faces down Fifth Street. The main concourse is of fireproof construction,

but the wings on both sides are of frame construction with brick walls. It is well designed, and is adequate and suitable for present purposes. As above indicated, the removal of passenger trains from Alameda Street will require either its abandonment or some other means of approach such as applicants here propose.

As a result of protests against the construction of the present Arcade Station, because it was feared that elimination of grade crossings on Alameda Street might thereby be delayed or prevented, the order of the Railroad Commission authorizing demolition of the old Arcade Station and the erection of the present one provided "that the tearing down and abandonment of said old depot, and the taking up, relocating, and placing of new trackage in connection with said new depot, or the approval of this Commission therefor, shall never be used as a defense against the separation of grade crossings in the State of California."

The Salt Lake admits that its passenger station at First Street on the east bank of the river is inadequate and inconvenient. The structure is a two-story frame building, erected in 1891, which cost about $10,000. It is largely given over to division offices and furnishes very poor facilities to passengers. The delay in determining the passenger terminal problem in Los Angeles is undoubtedly the only excuse for its continued existence.

The Santa Fe Depot on the opposite bank of the river fronts west on Santa Fe Avenue at Second Street. It is a relatively small brick building erected in 1893, but subsequently enlarged at various times. Its value, including furniture, parking, paving, etc., is estimated at

$50,000. Though much better than the Salt Lake Station, it can not be considered an adequate station. It would have been replaced several years ago by a modern structure but for the uncertain outcome of the proceedings mentioned.

Complainant claims that the present time is particularly opportune for the building of a union passenger terminal. As to the necessity for such a terminal, it contends that the carriers must shortly expend moneys for needed improvements which will purchase more conveniences for the public and result in more carrier economies if spent on a union terminal instead of on separate facilities, and that Los Angeles desires a union station located with best reference to transit lines and important thoroughfares and in harmony with its civic plans. Defendants contend that as Los Angeles is to a large extent a terminal city, the number of persons transferring from one station to another without stopover is smaller than in many cities of comparable size. Applicants state that their plan for a joint station did not originate in any need of the public for joint or union service, but only from the needs of the Southern Pacific for trackage rights along the Los Angeles River and of the Salt Lake for a new depot.

Proposed Facilities.

Three principal plans for passenger terminal facilities in Los Angeles are before us. The first of these, which complainant referred to at the first hearing in No. 14778 as illustrative, is substantially the plan for a union station at the Plaza included in the recommendations to the California Commission by its engineers following the

investigation mentioned. It is sometimes termed the Sachse Plan, and we will so designate it. The second, which may be termed the Plaza Plan, was presented by the California Commission at the hearing of the consolidated cases, and contemplates the erection of a union station at a specific site in the Plaza area. The city and the California Commission, together termed complainants, ask that the carriers be required to provide themselves with an adequate union passenger terminal at some site in the Plaza district, and not that they build according to any particular plan. The presentation of the Plaza Plan was mainly to demonstrate that an adequate union station conforming to the terms of the State Commission's order could be provided at a cost reasonably comparable with that necessary to provide a joint station for the Southern Pacific and Salt Lake and separate facilities for the Santa Fe. The third plan is that of applicants for a joint station at the Arcade site, which will not be used by the Santa Fe.

The Sachse Plan for a union station at the Plaza is part of a plan of larger scope suggested by the California Commission engineers as a solution of transportation, terminal, and grade-crossing problems in and near Los Angeles. This larger plan, sometimes also referred to as the Sachse Plan, contemplated union passenger and less-than-carload freight terminals, provided for bringing main lines of the Pacific Electric Railway into the station, and included an extensive program of grade separation besides many other related improvements. The order of the California Commission above referred to did not require the carrying out of the larger plan referred to, or the construction of the Sachse

Plan Station. Because of its relation to the more comprehensive plan, the Sachse Station Plan more than either the Plaza or the Arcade Plans takes into consideration the desires of the city of Los Angeles to establish a civic center in the vicinity of the Plaza. In Appendix 2 to this report we outline the three plans presented.

The Southern Pacific and the Salt Lake present an agreement for the establishment of the facilities described in the Appendix as the Arcade Plan, for their joint use. Provision is also made for a right of way along the east bank of the river for the Pacific Electric, an extensive interurban system radiating out of Los Angeles and a subsidiary of the Southern Pacific.[5]

In the agreement between applicants no provision is made under the Arcade Plan for bringing into the station interurban trains of the Pacific Electric, the main line of which would be distant about 1000 feet from the station on a viaduct 37 feet above grade. It would be feasible to extend a spur from the Pacific Electric Viaduct into the Arcade Station grounds so that cars from Pasadena, Long Beach, and other points scheduled to meet steam trains could be operated into the station.

---

(5) This right of way would be reached from the Pacific Electric Station at Sixth and Main Streets by continuing the present viaduct, which extends to San Pedro Street, easterly parallel to Sixth Street over the curved approach tracks described at Sixth and Alameda Streets, parallel with and immediately north of the steamline structure, reaching grade on the east bank near Fourth Street. Near Aliso Street the Pacific Electric would cross the steamline tracks, probably overhead, and connect with its private right of way to the northeast. From a point near Alameda Street another viaduct would branch to the south and connect with the Pacific Electric right of way near Fourteenth Street.

The contract between the applicants for the joint use of facilities does not provide for the admission of the Santa Fe to the Arcade Station at any future time. The Santa Fe does not wish to use the Arcade Station or to join in building a union station at the Plaza, although it would least dislike the latter plan. Its preference is for a separate station of its own on the present site.

Comparison of Arcade and Plaza Plans.

1. *Basis of comparison.*—The proponents of plans for a union station in the Plaza district and the applicants who favor a joint station for the Southern Pacific and the Salt Lake at the Arcade site with a separate station for the Santa Fe, each seek a finding from us that public convenience and necessity require the carrying out of the plan which they respectively favor. We therefore compare the plans presented to determine which would best serve the public convenience and meet the public necessity. Except as otherwise indicated, the Arcade Plan will be compared only with the specific Plaza Plan presented at the last hearing. Among the points on which the parties make comparison are the adequacy of the site and the facilities which are to be provided thereon; the accessibility of the station from all portions of the city and suburbs by vehicles, street-car lines, and interurban lines; the convenience of the station to passengers and for handling of baggage, express and mail; the segregation of passenger and freight traffic; the effect of the station site as a barrier between parts of the city; the consonance of the plans with the civic plans of the city; the new money cost of and total investment under the different projects; the relative expense

of operation and the length of time necessary to carry them out. In addition, though not involved before us in the sense that our approval is sought in connection therewith, is the relative possibility under the two plans of eliminating grade crossings of the Pacific Electric in Los Angeles, which here is an element only as it may affect the question of the public interest. Furthermore, the Arcade Plan makes no provision for the Santa Fe, but leaves that road to provide adequate facilities for itself.

2. *Adequacy.*—On the subject of adequacy of facilities most of the evidence related to the adequacy of the Arcade Plan as to site and facilities. Except for a track across Fourth Street connecting with Alameda Street near Third Street, the station would be a stub-end station. The Plaza station also would be of the stub-end type. Stub terminals require more station tracks than do through terminals. One through track is estimated as equivalent to at least two tracks in a stub-end station. At present the Arcade Station has eight station tracks and has two approach tracks at each end leading to Alameda Street. As indicated under the proposed arrangement there would be twelve station tracks and two approach tracks.

As to the adequacy of the Arcade site for a union station, the engineers of the California Commission in their report stated:

> The site is not large enough for an adequate and permanent union station such as, in our opinion, is appropriate for the city of Los Angeles. Not only does it appear that the site may be too narrow for the required number of station tracks but there seems

to be insufficient room for proper mail and express facilities and also for baggage.

In the opinion of the California Commission's engineers an adequate site for a stub terminal for Los Angeles should permit the construction of 18 station tracks. They criticised the mail, express, and baggage facilities because of the seemingly impossibility of locating them so that they could be handled economically at grade. Expansion of the site would be expensive and inconvenient. Relocation of Alameda Street, the closing of or separation of grades on Fourth Street, or the elevation of the station tracks are among the most probable means of expansion, and any of these would be attended by necessary destruction of permanent buildings.

The record contains comparisons of the proposed Arcade joint station with 18 stations in 10 important cities with respect to seating capacity and space provided for concourse, lounge and smoking rooms, and for baggage.[6] Stations doing a large interchange business require more seating capacity than a terminal station, and those handling much suburban travel require more concourse space than those mainly handling through passengers. Considering these facts, the seating capacity of the Arcade Station compares favorably with the others, and its concourse space, while less than in all except four of the stations, is probably ample, particularly if the number of daily trains be taken as an indication of the relative number of persons using the several stations. Of the stations with which comparison is made, only the Kansas

(6) These cities are Boston, Mass.; Buffalo, N. Y.; Chicago, Ill.; Denver, Colo.; Detroit, Mich.; Kansas City, Mo.; Minneapolis, Minn.; Omaha, Nebr.; St. Louis, Mo.; and Washington, D. C.

City Station has more space devoted to lounge and smoking rooms than the Arcade, and only four have substantially more baggage space.

With respect to the adequacy of the Arcade Station buildings for union terminal use, the report of the engineers of the California Commission states:

> The present station building is large enough for some time to come. The baggage room is also sufficient. The express building will do for a "delivery" building, but a new "forwarding" building should be built with 10,000 square feet of floor area, south of the present auto park.

In May, 1923, the last period for which definite figures were given, 62 regularly scheduled through and local trains a day arrived at or departed from the Southern Pacific and Salt Lake stations, besides extra trains. All three carriers serving Los Angeles handle a total of about 84 regularly scheduled trains, about 21 of which are local trains with runs not over 100 miles in length. Based on past experience, applicants estimate that the total number of regularly scheduled trains of all three lines will amount only to about 81 trains in 1943. In 1910, the three steam lines serving Los Angeles handled in their city stations approximately 132 trains daily. At that time the population of Los Angeles was 325,000; now it is more than threefold that figure. The decrease in the number of trains during the intervening period was due to the taking off of certain of the local trains, which in 1910 numbered 78 per day. The restriction of local steam train service apparently resulted from the development of the extensive interurban business of the Pacific Electric, the establishment of auto stage lines, and the increase in the

number of private automobiles. Since 1910 the number of through trains on all lines has increased from 50 per day to 63 at the present time. Applicants' estimate of a total of 81 regular trains in 1943 in part assumes that no local service will be maintained after 1928. The report of the engineers of the California Commission estimates 140 trains daily in 1940. Lately the Southern Pacific built a station at Glendale which is more accessible by automobile from Hollywood and Pasadena than is the Arcade Station.

Applicants' engineering officers estimate that the station under the proposed Arcade Plan will be adequate for the handling of a maximum of 120 trains daily, and for the handling of 200 trains a day if two more approach tracks are added. The abutments of the proposed Sixth Street viaduct can be extended to provide for two additional approach tracks when needed. Such piecemeal construction is undesirable and more expensive than if the whole were constructed at one time.

On the basis of 62 regular scheduled through and local trains a day arriving at or departing from the Southern Pacific and Salt Lake stations, defendants made a comparison of the Arcade Station as a joint facility for the two roads with the stations referred to above. This made particular reference to the number of approach tracks and to the ratio of approach tracks to station tracks. The comparison follows:

Station 1	Tracks			Trains		Trains per day		Trains per busy hour	
	Station	Approach	Ratio	Per day	Per busy hour	Per station track	Per approach track	Per station track	Per approach track
Stub-end stations:									
Los Angles (Arcade)	12	2	6.00	62	8	5.17	31.0	0.67	4.0
Buffalo (Lehigh Valley)	9	3	3.00	16	3	1.78	5.33	1.33	1.0
Detroit (Union)	5	2	2.50	47	9	9.4	23.5	1.8	4.5
Buffalo (D. L. & W.)	6	2	3.00	56	8	9.33	28.0	1.33	4.0
Chicago (Dearborn)	13	4	3.25	120	16	9.2	30.0	1.2	4.0
Chicago (LaSalle)	11	4	2.75	200	24	18.2	50.0	2.18	6.0
St. Louis	32	6	5.33	252	55	7.9	42.0	1.7	9.2
Chicago (C. & N. W.)	16	6	2.67	274	46	17.1	45.6	2.9	7.6
Boston (North)	23	8	2.87	376	45	16.4	47.0	1.9	5.6
Boston (South)	28	10	2.80	621	90	22.2	62.1	3.2	9.0
Through stations:									
Denver	9	4	2.25	95	15	10.5	23.7	1.66	3.75
Detroit (Mich. Cent.)	11	4	2.75	85	15	7.73	21.25	1.36	3.75
Minneapolis (G. N.)	12	4	3.00	116	15	9.66	29.0	1.25	3.75
Buffalo (N. Y. C.)	12	6	2.00	158	18	13.16	26.3	1.5	3.0
Kansas City, Mo.	16	8	2.00	210	34	13.12	26.2	2.12	4.2
Combination:									
Chicago (Ill. Cent. Twelfth Street)	8	3	2.67	76	8	9.5	25.3	1.0	2.67
Omaha (Union)	7	4	1.75	105	15	15.0	26.2	2.14	3.75
Washington, D. C.	32	9	3.20	280	22	8.8	31.1	0.7	2.4

(1) Abbreviations of names of railroads: D. L. & W. Delaware, Lackawanna & Western; C. & N. W., Chicago & North Western; Mich. Cent., Michigan Central; G. N., Great Northern; N. Y. C., New York Central; Ill. Cent., Illinois Central.

In the cases of some of the large stub-end stations, such as the Chicago and North Western Station at Chicago and the Boston South and Boston North Stations, there is very heavy suburban traffic. In many such cases the trains are short, and the practice of placing more than one on a station track at a time increases the number of trains than can be handled during the rush hours. This practice would not be possible to so great an extent at the Arcade Station, due to the predominance of long through trains. In some instances a large number of trains originate or terminate at through stations. Thus, a majority of the

trains handled in the Kansas City Union Station and in the Michigan Central Station at Detroit do not go through. At Kansas City the make-up of practically all through trains is changed. This involves switching over the throat tracks. In the case of the Kansas City station the number of approach tracks does not fully indicate capacity performance, as some of them are necessitated by the roads spreading out as the ribs of a fan in all directions close to the station. Six of the lines from the east are accommodated on two approach tracks. Certain of the stations, such as the Lehigh Valley at Buffalo and the Union Station at Washington, D. C., are so far ahead of present needs as to make them of little value as showing maximum capacity.

Should the Santa Fe erect a new station on or near the site of its present one, as manifestly it will seek to do if we approve applicants' plan, such a station would doubtless be wholly adequate so far as capacity to handle its own traffic properly is considered. If, after the construction of a passenger terminal according to applicants' plan, the question should arise whether the Santa Fe should be required to join in using the Arcade Station, the adequacy of the latter as a union station and the period of time during which it would be adequate would be of importance. Applicants' testimony is to the effect that the Arcade Station would be adequate for all three railroads for many years to come without enlargement of the arrangement as now planned. As indicated, the regularly scheduled trains of the three carriers at Los Angeles are about 84 in number. In addition, extra trains are run as travel demands. Not uncommonly do important trains arrive or depart from Los Angeles in as many as

five sections. A union station at the present time should be able to handle 100 trains a day and 15 trains a busy hour. On this basis there would be for each approach track 50 trains a day and 7.5 trains a busy hour. Of the stations shown in the table, only the Boston South Station has more trains daily for each approach track, and only that station, the St. Louis Station, and the Chicago & North Western Station at Chicago have more trains each busy hour for each approach track. Although the exhibit is based on the number of regularly scheduled trains rather than the actual number handled, the comparison is significant. Moreover, it is apparent that should the Santa Fe use the Arcade Station the time when additional approach tracks would become necessary would be much hastened.

Complainants question applicants' estimate of the train capacity of the Arcade station and contend that, irrespective of the number of approach tracks, the Arcade site is too narrow and too small to serve as a union station for the Southern Pacific, the Salt Lake, and the Santa Fe. They particularly criticize the adverse grade out of the station under the Arcade plan. The 1 per cent grade extends for a distance of 800 feet from the south end of the umbrella sheds, and a lesser grade extends for some distance beyond. This would slow up movements out of the station, and, to some extent, movements in the reverse direction. The grades are less, however, than the ruling grades on the divisions over which engines entering and leaving the station operate. In their report the engineers of the California Commission gave as their opinion that at the end of 20 years 140 trains a day might be expected, and that 12 station tracks with proper

approach tracks would handle that number of trains, although 18 station tracks would be preferable.

There is no refutation of the testimony as to the adequacy of the station layout under the Plaza plan to handle all the trains of all steam carriers serving Los Angeles for many years, and its capacity to care for trains of any other carriers which may enter the city. Though the curved approaches to the throat tracks are not as desirable as straight approaches, the grades and curves would tend to slow up incoming trains and to accelerate outgoing trains and thereby make a fast throat. This plan also provides ample space for baggage and express and sufficient tracks to serve those facilities.

3. *Accessibility.*—The record contains much with respect to the relative accessibility of the two sites. Many important thoroughfares radiate from the Plaza.[7]

In the case of the Arcade station, the radiation of streets is not so favorable. To reach it vehicular traffic

(7) Main Street and Los Angeles Street from the South pass by it, Sunset Boulevard from the west carrying traffic from Hollywood and a large part of the San Fernando Valley reaches it, and Spring Street, which merges into Main at Temple Street, and Broadway, through its tunnel connection with Sunset Boulevard, have ready access to it. North Broadway, leading to San Fernando Road, Pasadena, and the territory east, is close by; so are Macy and Aliso Streets, which carry a heavy volume of traffic to the territory north and east of Los Angeles. Alameda Street, an extended thoroughfare from the south, and diagonal in direction with respect to Main Street, taps a large territory, and passes through the industrial section to within a block of the Plaza and immediately in front of the proposed Plaza Station. San Pedro Street, which fans out intermediate between Main and Alameda Streets, and serves a considerable portion of the city to the south, terminates near the Plaza, and under the Plaza plan would merge into Alameda Street in front of the station. Traffic from the west and southwest can reach the Plaza district through Figueroa Street and Sunset boulevard and thereby avoid the crowded business section.

from the west and southwest must cross the business section or detour around over streets that are not through highways. The Arcade station is, however, somewhat closer to the center of the business, shopping, and hotel district than is the Plaza site, and can be reached by cab therefrom slightly more quickly. The Santa Fe station is not as well located with respect to arterial highways and with respect to the business, shopping, and hotel district as either the Arcade or Plaza sites.

In respect of accessibility by street car lines the Plaza station would have an advantage, owing to the fact that more lines reach the Plaza district and would distribute more passengers without the necessity of transfer than is the case at the Arcade station. There are eight street-railway routes passing the Plaza with an aggregate length of 97.8 miles, as compared with two such routes serving the Arcade station with an aggregate length of 18.2 miles. At present the lines which serve the Plaza are some 750 feet from the concourse of the proposed Plaza station on Alameda Street, and persons reaching the station by street car would have to walk this distance. It would apparently be feasible to shorten this distance at least 300 feet, and permit access to the station from Los Angeles Street by extending the street car tracks around the Plaza. The Santa Fe station is served by three street car lines. There is no through street car service between the Santa Fe and Arcade stations, and transfer between them is inconvenient except by cab. Probably 60 to 70 per cent of the steam railroad passengers use street cars in going to or coming from the station. The engineers of the State Commission considered the Arcade site as a location for a union station only slightly inferior, as re-

spects accessibility by street cars, to the site for a station under the Sachse plan. In their opinion the distance of the Santa Fe site from the business district made it far the least desirable site for a union passenger terminal. As regards accessibility by street cars, they assigned to the Plaza, Arcade, and Santa Fe sites, considered as sites for union stations, weighted ratings of 60, 48, and 18, respectively.

Complainants and applicants stress the accessibility of the sites they favor to the interurban lines of the Pacific Electric. In 1922 those lines carried 88,006,000 passengers. This carrier handles most of the Southern Pacific's local business, including its Long Beach and Pasadena traffic. If the Arcade plan is carried out the Pacific Electric will bring all through trains from the northeast, east, and south into its station at Sixth and Main Streets over its own viaduct described above. At present a local line of the Pacific Electric extends from the Arcade station past the electric company's station to the Edendale section. Unless an elevated spur from the Pacific Electric viaduct were extended into the Arcade Station as suggested, the inconvenient access to the viaduct and the lack of facilities at that point probably would cause many passengers transferring between the Arcade station and such lines of the Pacific Electric to go to the station at Sixth and Main Streets, and there transfer between the local and interurban lines of the latter. The local line mentioned does not reach without transfer the Pacific Electric's Hill Street station, the terminal for its lines to the west and northwest. The Santa Fe station is not served by the Pacific Electric; most of the passengers transferring between the two sys-

tems would have to make use of the local street cars or cab service. The street car lines serving the Santa Fe station do not reach without transfer the station of the Pacific Electric at Sixth and Main Streets.

The present main line of the Pacific Electric to points northeast of Los Angeles, including Pasadena, Pomona, and San Bernardino, passes the Plaza station site on Aliso Street. The lines to the south do not pass the site, although under the present surface track arrangements special trains coming therefrom could reach it, but would cross many busy streets at grade. Provision could easily be made to bring a local line of the Pacific Electric to the Plaza station grounds or to detour the Aliso Street line through the station. The former would be feasible even though the Pacific Electric constructed its proposed viaduct to the east bank of the river. Use of such local line by interurban passengers would generally involve a transfer at the Pacific Electric station. Under either the Plaza or Arcade plans, Pacific Electric passengers from the west and northwest using its Hill Street station would have to transfer to a local line.

4. *Convenience.*—One of the principal arguments for a union station as contrasted with separate stations is that it promotes to a greater extent the convenience of passengers and makes possible the handling of baggage, express, and mail in one location. The proportion of travelers reaching Los Angeles who transfer immediately to another railroad is not as large as at many cities. Most travelers who come into Los Angeles from a distance stop in the city or its environs for a short time at least, and for them a union station is less important. Applicants presented estimates that 97 per cent of Los An-

geles passenger traffic is terminal rather than interchange traffic. For the first 10 days of June, 1923, the Santa Fe, the Salt Lake, and the Southern Pacific brought into Los Angeles 41,030 passengers, of whom 824, or slightly over 2 per cent, transferred from one station to another. This does not include persons stopping over in Los Angeles, passengers transferring at Los Angeles but traveling on separate tickets to and from that point, or passengers transferring to and from the Pacific Electric. Since the war period the Santa Fe through service between the east and San Francisco has been much restricted, and its through service between San Diego and Los Angeles, in Southern California, and San Francisco has been discontinued. As a result there are undoubtedly many more transfers between the Santa Fe and Southern Pacific at Los Angeles than formerly. The California Commission's engineers' investigations indicated that probably 10 per cent of the passengers carried by the steam lines normally transferred from one road to another. This does not include passengers transferring to or from the Pacific Electric.

Complainants regard the Arcade station itself as less convenient for passengers than the Plaza plan station. To reach trains at the Arcade station, passengers must go through the waiting room down a 15 per cent incline to the subway 10 feet below, and up by a similar incline to the station tracks. Incoming passengers go down into the subway and thence out by an 18 per cent incline through the building to the sidewalk. At the station proposed for the Plaza, if the ticket office were on the lower level, passengers could come in from Alameda Street and go to trains with an ascent of 8 feet in the

case of impaired clearance at the Alameda Street bridge, or an ascent of 13 feet and a descent of 5 feet in case full clearance were allowed. All ramps would be on 10 per cent grade, which is standard for such construction. Congestion of passengers arriving from trains would be greatly reduced by the two-level station. Street cars and autos could be reached from the upper level, and taxi stands and autos from the lower level.

The possible consolidation of baggage, express, and mail facilities through unification of passenger terminals would be much more convenient for the public than the maintenance of separate facilities at more than one station. The handling of baggage at a union station would be a convenience to passengers, and would result in an economy. Consolidation of mail facilities near the central post office in the Federal Building, which is close to the Plaza, would be of substantial benefit in handling the mails. In summing up the advantages and disadvantages of the sites considered by them for a union station, the engineers of the California Commission in their report stated:

> The Southern Pacific site stands first with regard to the collection and distribution of baggage, mail and express. This is because the origin and destination of the express matter (by far the largest item among these three), lies in a district closer to the Southern Pacific Station.

5. *Segregation of passenger and freight traffic.*—Under either the Plaza or Arcade Plans all freight traffic, except night switching of industrial freight, would be taken off Alameda Street and diverted to the river banks. Under the Arcade Plan both passenger and freight traffic of the Southern Pacific and the Salt Lake would be handled on

the east bank of the river, and Santa Fe freight and passenger business would remain on the west bank. If the Plaza Plan is effectuated, all passenger traffic except that moving over the El Paso line will be routed along the west bank of the river. It is probable that considerable freight business would be so routed, although the east bank well could be used for some freight movements. At present the Pacific Electric hauls through the city no freight moving between its southern and northeastern branches, but delivers it to the Southern Pacific for transfer by way of Alameda Street. The northern transfer yard is at Macy Street, and the carrying out of the Plaza Plan would necessitate its abandonment. A substitute service could apparently be had in connection with the Salt Lake as a switching line between Alameda Street and the Elliott Street transfer, but if the Southern Pacific should divert its freight traffic to the east bank, as proposed under the Arcade Plan, it could itself perform the service.

The industrial district of Los Angeles is largely west of the river, and is reached by many spurs extending from the Santa Fe line westerly to the industries. Recognizing the possibilities this situation offers for unifying certain freight facilities on the west bank of the river, the California Commission's engineers in their report recommended the establishment of a union less-than-carload freight station at the Santa Fe terminal site. The order of the California Commission for the establishment of union terminals did not include provision for any unified freight facilities. The California Commission engineers also noted the greater possibility of segregating passenger and freight operations on opposite sides of the river under the plan for a union station at the Arcade

site than under the Plaza plan there considered. Under the Plaza Plan there would necessarily be some conflict in passenger and freight operations on the west bank of the river, though this would be minimized if provision were made for freight operation on the east bank.

6. *Station site as barrier to city traffic.*—Complainants make comparison of the Arcade and Plaza Plans with respect to the extent to which the station grounds and track layout obstruct traffic or act as a barrier between related sections of the city. This comparison favors the Plaza site.[8]

---

(8) The district between Alameda Street and the river is largely industrial. There is a heavy trucking traffic between it and that part of the city west of Central Avenue. In addition there is a heavy vehicular traffic over the Fourth Street viaduct between the east and west sides of the city. The Arcade Station blocks Fifth Street completely. Under applicant's plan undesirable crossing situations would remain at Fourth and Sixth Streets. To accommplish the depression of Sixth and Alameda Streets necessary to the viaducting of the approach to the Arcade Station grades of 3 per cent would be introduced. An industry track from north on Alameda Street would extend south down one of these grades across Sixth Street and would turn down south into the Los Angeles Market. As above noted, one track other than those on Alameda would remain across Fourth Street north of the station to provide access to the railway-mail post office, express yard, and the plant of the Los Angeles Ice & Cold Storage Company. Defendants estimate the movements over this track to the railway-mail post office at 8 to 10 a day. The same track connects with the tracks on Alameda Street near Third Street and, together with a connection between the Alameda Street tracks and the throat of the yard, would provide a means of running around the station yard without blocking the throat tracks. To the extent that switching at the railway-mail post office, express yard, and cold-storage plant from time to time involved moving cuts of cars over the Third Street switch connection, or to the extent that this facility might be used to run around the station yard, the heavy traffic on Third Street would also suffer interference. There are no streets crossed at grade at the Plaza site, except for the industrial freight line, which would remain on Alameda Street in either case. The station site would lie between two traffic arteries, but would not obstruct traffic, as there is comparatively little between the sections immediately north and south thereof.

Upon exception and argument applicants state that under their plan the handling of through Southern Pacific freight trains on the east bank of the river will eliminate the grade crossings at North Main and North Spring streets by its line on Redondo Street. The same arrangement is equally possible under the Plaza Plan. Indeed, applicants' estimate of costs for the latter plan provides for an east-bank freight line.

7. *Consonance with civic plans.*—The Plaza harmonizes with the civic plans of Los Angeles much more closely than does the Arcade Plan. The city through its Planning Commission undertook a study to determine the proper location for its administration or civic center. The report of that Commission found that the Plaza is the center of population of the Los Angeles metropolitan area, that it is the geographical center of that area, and that it is the point of convergence of the largest number of streets and highways. The Planning Commission recommended that the civic center be established in the area bounded by First Street on the south, Los Angeles Street on the east, Sunset Boulevard on the north, and Hill street on the west. The Plaza proper lies within this area, and the Plaza station here proposed would adjoin the area on the east. The City Council approved the report, and has proceeded to acquire the necessary lands within the described area for the erection of public buildings and the relocation of Spring Street and North Broadway. In June, 1923, the voters of Los Angeles by an overwhelming majority authorized the location of a proposed new city hall in the area just described in preference to a location south of Ninth Street, west of Los Angeles street, north of Washington Street, and east of Grand Avenue. Within

the civic center area at the present time are several public buildings, including the County Courthouse, the Hall of Records, an additional building used for county offices, the City Hall Annex, and the Federal Building. A new Hall of Justice is being erected within the area at North Broadway and Temple Streets. Public authorities own other lands within the area, and still more land therein is now being condemned for various public purposes. The Arcade Station is about a mile distant from the civic center.

The character of improvements in the Plaza district, particularly near the site of the proposed Plaza station, is now not as good as at the Arcade station site. A large foreign population lives near the Plaza, chiefly Mexican and Mongolian. Under the proposed Plaza Plan the acquisition of the necessary land would dispossess most of the Mongolians in that immediate district. A station on the Santa Fe site would not harmonize at all with the city's civic center plans. This site is next the river, surrounded by an industrial district. It is also about a mile from the civic center.

8. *New money costs and total investment.*—The California Commission sought to prove that the net new money required for a union station at the Plaza need not exceed that necessary to carry out applicant's plan and to provide separate and adequate facilities for the Santa Fe. It endeavored to establish that if such a union station were built the total investment in passenger-station facilities would be less than if a joint station were built for the Southern Pacific and the Salt Lake and a separate station for the Santa Fe. The California Commission's computations are summarized in the following table. Some items

which would be the same under either plan, with the exception of the Southern Pacific coach yards, are not included.

Description	Applicant's plan	Santa Fe	Total	Plaza
1. Passenger station and facilities	$1,483,059	$1,500,000	$2,983,059	$6,476,000
2. Coach yards (both plans)	416,780	.....	416,780	416,780
3. New trackage and connections	1,590,380	120,000	1,710,380	326,600
Subtotal, 1 to 3	3,490,219	1,620,000	5,110,219	7,219,380
Net salvage value of release property:				
Southern Pacific station site	.....	.....	.....	[1] 3,000,000
Santa Fe station site	.....	.....	.....	[1] 950,000
Net	.....	.....	5,110,219	3,269,380

[1] Credit.

Taking the same subtotals and adding thereto the estimated value of the existing station facilities, the State Commission computes the total investment in passenger-station facilities as follows:

Description	Applicant's plan	Santa Fe	Total	Plaza
1-3. Subtotal	$3,490,219	$1,620,000	$5,110,219	$7,219,380
5. Existing station facilities	4,805,000	950,000	5,755,000	.....
Total	8,295,219	2,570,000	10,865,219	7,219,380

In their brief, applicants have revised these figures, with the result that their estimates of the new money required are $3,990,219 for the separate facilities, as against $10,880,180 for the Plaza Plan, and their totals for investment in station facilities are $8,690,219 for the separate facilities, as against $11,617,180 for the Plaza Plan.

Some of the points of divergence with the State Commission's estimates will be noted. There is no dispute as to the propriety of applicants' items 1, 2, and 3, nor as to item 2 under the Plaza Plan. Applicants' revision includes but $500,000 for separate station facilities for the

Santa Fe. There is nothing of record to support this figure other than the unsworn statement of counsel for the Santa Fe at the hearing and on brief that this amount would be sufficient to provide it with adequate station facilities. The figure of $1,500,000 used in complainants' computation as the cost of a separate Santa Fe station was named by an engineer of the California Commission as the assumed amount the Santa Fe would expend in providing such facilities. He also testified that at present prices the cost of facilities equal to those at the Arcade Station would run well over a million dollars. The Arcade Station contains in the wings of the building 300,000 cubic feet of office space which the Santa Fe contends is unnecessary to an adequate station. If the Santa Fe builds a separate station it will probably expend at least the amount estimated by complainant, but for present purposes we may assume that it would provide station facilities equal to those at the Arcade Station minus the office space. Making suitable deduction for such space, the record warrants the use of $1,000,000 as the reasonable cost of separate and adequate Santa Fe station facilities.

Applicants' computation omits $120,000 for double tracking the Santa Fe from North Broadway to Aliso Street on the ground that such construction would be unnecessary if the Plaza Plan is not carried out. Unless the west approach to the proposed Macy Street viaduct is extended to pass over the Santa Fe passenger line between Alhambra Avenue and Aliso Street, the track construction contemplated by this item will have to be made regardless of which station plan is effectuated. The Santa Fe states that the item relates to grade separation only and is no proper part of the expense of

a passenger station, whether union or separate. We will omit that item from both the Plaza and separate station plan estimates. Defendants' figures make several additions to Plaza item No. 1, as follows:

Additional allowance for engineering and contingencies	$165,000
Additions to station building	190,000
Division offices	190,000
Express building	200,000
Increase in land-value estimate	2,902,800
Total	$3,647,800

Applicants' cost figures for a joint Southern Pacific-Salt Lake station include an item of 27 per cent of construction costs, to cover 5 per cent for engineering, 7 per cent for interest, and 15 per cent for contingencies. The State Commission has allowed 20 per cent for these items. To provide a comparable basis for comparison defendant would increase the allowance by 7 per cent of $2,353,300, the construction costs as estimated by the State Commission, or $165,000. Applicants' revised estimate adds $190,000 to the State Commission's estimate of $1,500,000 for a station building. This is based upon a cost of $120,000 for the concourse between the head house and the stub end of the tracks, plus $30,000 to cover exterior features such as ramps and subway construction in Alameda Street, and an allowance of 27 per cent of such additions for engineering, interest, and general contingencies. The head house of the station contemplated would be of steel-frame construction, similar in type to the head house of the Arcade Station, and would be 400 feet in length, 120 feet wide, and 60 feet in height. The Commission estimate of 50 cents per cubic foot would produce a cost of $1,440,000 for the head house. Assuming that the concourse and exterior features would cost

$150,000 additional, such amounts would be amply taken care of by the $60,000 balance of the estimate and by the allowance for engineering, interest, and general contingencies, which as increased amounts to $405,000.

The present Arcade Station contains 300,000 cubic feet of space used for division offices. The Plaza Plan apparently makes no such provision. Assuming like space were provided in the Plaza station building at a cost of 50 cents per cubic foot plus 27 per cent for engineering, etc., complainants' figures should be increased $190,000 as indicated.

The California Commission's figures contain no provision for an express building, apparently on the theory that it is not defendants' duty to provide that facility. But the plan is not comparable to the Arcade Plan without an express building. Whether defendants or the express company build it, the value thereof would still form a portion of the base on which a fair return should be paid by the public either in railroad or express rates. Defendant's estimate is that $200,000 would be necessary for this purpose.

The land required for the Plaza Plan station would have an area of 1,780,286 square feet. The cost, according to the State Commission's figures, would be $2,597,200.[9]

---

(9) This apparently consists of a base figure of $1,954,480, plus approximately 18.6 per cent for cost of acquisition and 12 per cent of the total for interest during construction. The base figure represents twice the assessed value for the assessment year 1924-25. Assessments of land in Los Angeles County are customarily made at 50 per cent of the estimated fair market value. The testimony of the deputy county assessor, who for years has made the assessments on property in the industrial district, including the Plaza site lands, indicates that the fair market value of the land at the time of the hearing was $2,017,365. A witness

A consideration of the land values of $2,017,365 and $3,490,500 on the basis of the unit prices named by the deputy county assessor and those used by defendants, respectively, persuade us that under the circumstances the former is too low and the latter too high. An average of the two, $2,753,932, would be a fairer figure. Increasing this amount by 25 per cent, to cover cost of acquisition, and adding 12 per cent to the total for interest during construction, the resulting figure would be $3,855,505. The evidence of record justifies the conclusion that this amount should be allowed as the probable future cost of the station lands under the Plaza Plan.

In revising the State Commission's figures defendants have added to Plaza item 3 $750,000 to provide freight trackage on the east bank of the river for the Southern Pacific substantially similar to that under applicants' plan. Assuming that Southern Pacific freight would be so

---

produced by defendant testified to much lighter land values in the Plaza district, and said that the asking price of land therein would be increased 25 per cent if a station in that section were ordered. On this basis defendants claim the cost of the necessary lands would be $5,500,000, or $2,902,800 in excess of the amount estimated by the State Commission. Defendant's figure is based upon the assumed acquisition of an area of 2,300,000 square feet, which is larger than that contemplated by the Plaza plan. Applying defendants' unit prices to the proper area, a base cost of $3,490,500 results. An allowance for assumed increase in asking price other than as covered in the allowance for cost of acquisition does not seem proper. At the argument the parties stipulated that the Southern Pacific has recently acquired title to the so-called Hanchett lands, about 25 acres of which would be necessary for a portion of the station site under the Plaza plan. These lands were acquired in connection with the acquisition of the El Paso & Southwestern system. Counsel for the Southern Pacific at the argument stated that the El Paso & Southwestern paid $6,250,000 for the Hanchett lands. The report of the California engineers indicates that these lands have an area of 1,500,000 square feet, or approximately 34.4 acres. The record with respect to this transfer does not enable us to accord much weight to the figures quoted.

handled on the east bank rather than on the west bank at less cost for construction, the costs comparable with those shown under the applicants' plan would not amount to $750,000. The only construction covered by applicants' item 3 is of Salt Lake units 1 and 2 and Southern Pacific unit 2. The last two units, with costs of $86,935 and $326,498, respectively, would be required under the assumption made. But the balance of the $750,000 would not be required for merely that portion of Salt Lake unit No. 1 necessary for freight service. So far as can be determined from the data of record the only construction required would be the double tracking of the Salt Lake line from Alhambra Avenue to a point midway between Macy and Aliso Streets and the provision of double-track turnouts at the south leg of the Alhambra wye and at Elliott Street. Apparently $50,000 would cover these costs, making a total of $463,433 for the east-bank freight line construction.

Revising the State Commission's estimate in line with the conclusions reached, we produce the following results:

Description	Applicant's plan	Santa Fe	Total	Plaza
Passenger station and facilities (item 1)	$1,483,059	$1,000,000	$2,483,059	$6,356,000
Increased engineering, etc.	.....	.....	.....	165,000
Division office space	.....	.....	.....	190,000
Express building	.....	.....	.....	200,000
Increased land allowance	.....	.....	.....	1,258,305
Coach yards (item 2)	416,780	.....	416,780	416,780
Trackage and connections (item 3)	1,590,380	.....	1,590,380	206,600
East bank freight line	.....	.....	.....	463,433
Subtotal	3,490,219	1,000,000	4,490,219	9,256,118

Applicants' revision of the California Commission's statement reduces to $737,000 the item of $3,000,000, which represents the salvage value of property at the Arcade site to be released from passenger service in the event

the Plaza plan is carried out. This reduction is based upon the anticipated reversion of a portion of the Arcade site, known as the Wolfskill tract, which was given to the Southern Pacific by grant deed, subject to the condition that it should be used for a general railroad passenger station and not otherwise and should revert to the grantors upon breach of the condition. It is well established that the right of a carrier or the public authorities to make such change in the location of a railroad station as may be required to provide reasonable and adequate service can not be controlled or prevented by private contract or by the fact that private citizens in the expectation of the continuance of a station at a particular place have made donations of land or money. 33 Cyc. 143, and cases there cited. A condition subsequent in a deed, providing for the reversion of real property in case any certain act is done or omitted, is inoperative where the doing or omission is compelled by public authority.[10] The reduction of the item mentioned is therefore not justified. But, even assuming reversion, the basis for the figure of $737,000 used in applicants' brief does not appear. The area of the Wolfskill tract is 81 per cent of the total area of the Arcade station grounds, but its value based on 1918 figures is 62.4 per cent of that of the total area. If the total salvage item of $3,000,000 be apportioned on the basis of relative land values as above, the value of the non-Wolfskill property would be $1,128,000. But the station building, esti-

(10) 18 *C. J.* 375; *Scoville v. McMahan*, 62 Conn. 378; *Doe dem. Marquis of Anglesea v. Church Wardens of Rugely*, 6 Q. B. 107; 2 *Washb. Real Prop.* 15; *Fidelity Ins. Trust & Safe Dep. Co. v. Fridenberg*, 175 Pa. St. 500; and *German E. P. Congregation v. Schreiber*, 277 Mo. 113.

mated to have a salvage value of $159,000, is not located upon the Wolfskill tract. The record does not admit of determining with exactness the value of the property not effected by the reversionary clause. But if the value of the land alone be taken on the basis of $5.50 per square foot as testified by the deputy county assessor and apportionment is made on the basis of the relative values in 1918, the value of the non-Wolfskill lands is $1,337,719. The record amply warrants the conclusion that even if the anticipated reversion should occur, salvage values of at least $1,250,000 would remain.

The item of $950,000 representing the value of Santa Fe station lands that would be released from passenger service if a union station were built at the Plaza, is omitted from applicants' revision of the California Commission's comparative statement of new money costs. This is on the theory that these lands would not be sold, but would be retained in railroad ownership for use in freight service. The station grounds front on Santa Fe avenue and adjoin the freight yards. The less-than-carload freight station of the Stanta Fe is on the opposite side of Santa Fe avenue somewhat south of the present station building. These lands if released would be very desirable as industrial property. But assuming that the Santa Fe would retain them for freight purposes, their value would still be a proper deduction in estimating the new money costs of union passenger station facilities at the Plaza. The virtual purchase of additional lands for freight service should not be counted as a cost of passenger facilities in making such comparison between the different projects.

Defendants' computations reduce complainants' figure of $4,805,000, representing the value of existing station facilities of the Southern Pacific to $3,784,000. The latter figure takes the salvage item of $3,000,000 as the value of the land, and adds thereto for facilities the 1916 valuation figure of $784,815 claimed by the Southern Pacific. The item of $3,000,000 has not been fully explained of record, nor its elements revealed, but apparently it is based upon the assumption that the Southern Pacific station and facilities would be demolished and that the value of the land would be much less for industrial sites than its value as a single piece for a station site. Present values are much higher than those of 1916. If present-day values are taken as the value of these properties in railroad use, the figure of $4,805,000 does not appear excessive in the light of the evidence of record. At one of the hearings before the California Commission in 1917 the Southern Pacific claimed a value of $5,000,000 for the facilities between Fourth, Sixth, Central, and Alameda streets. Revising the State Commission's cost comparisons on the basis of these conclusions, the results are as follows:

Description	Applicant's plan	Santa Fe	Total	Plaza
Subtotal	$3,490,219	$1,000,000	$4,490,219	$9,256,118
Salvage value of release property (item 4):				
Southern Pacific station site	.....	.....	.....	1 3,000,000
Santa Fe station site	.....	.....	.....	1950,000
New money required	3,490,219	1,000,000	4,490,219	5,306,118
Subtotal	3,490,219	1,000,000	4,490,219	9,256,118
Existing station facilities (item 5)	4,805,000	950,000	5,755,000	.....
Total investment, property devoted to passenger terminal uses	8,295,219	1,950,000	10,245,219	9,256,118

1 Credit.

One other element of cost should be noted. The Plaza plan makes provision for accommodation of additional lines of railroad and for many additional trains with but slight expenditures. As indicated above, the approach-track arrangement under the Arcade plan would need amplification if the number of trains in and out should substantially exceed 120 per day. Applicants' plans provide for construction, if and when necessary, of two additional approach tracks on trestles from the east bank of the river. The cost of such construction would be practically equivalent to that of the proposed viaduct, estimated at $2,087,322. If ultimate cost be considered and this item included, the additional investment required under the Arcade plan would amount to approximately $6,577,500, as against about $5,306,000 under the Plaza plan, and the total value of property in passenger service would become about $12,332,500, as compared with approximately $9,256,000. With only the Southern Pacific and the Salt Lake in the Arcade depot, viewed by present conditions, it is not likely that expansion of the approach to four complete tracks across the river would become necessary for some years. It might sooner become necessary to construct two additional short approach tracks to facilitate station switching, long enough for any passenger train, but they would not require new bridges over the river. The record furnishes no satisfactory basis for determining the cost of such partial expansion.

The cost of passenger facilities under the carriers' plans as above estimated would need some revision if the Santa Fe should use the Arcade station in common with applicants. The cost of a separate station for the Santa

Fe would be eliminated, and provision should be made for connections with the Salt Lake at Hobart and at Humboldt street on the east bank of the river. The cost of these connections probably would not exceed $80,000. An additional express building with a floor area of 10,000 square feet would be necessary under this plan. Such a building would probably cost about $75,000. If a site were provided south of the present station auto park, the land would probably cost $80,000, not including land necessarily acquired but not needed for an express-building site. On this basis the new money cost would be about $3,725,000 with two approach tracks and $5,812,500 when two more such tracks should be added. Similarly the total investment would be $8,530,000 under the first assumption and $10,617,000 under the ultimate plan. If a viaduct for all four tracks were provided at the start, as would seem to be advisable if the Arcade station were converted into a union station, the new money cost and total investment would possibly be somewhat less than the ultimate figures shown. These figures do not include the cost of providing more accessible engine terminals and coach yards for the Santa Fe or better means of access from their present facilities.

9. *Expense of operation.*—The record contains some evidence bearing on the saving in operating expense under the Plaza plan. Most of such evidence does not relate to the specific Plaza plan now before us. One comparison is pertinent. Under the Arcade plan, according to an engineering witness, locomotives would have to develop 6,755,570 foot-tons daily as against 4,885,700 foot-tons under the Plaza plan. On this basis the witness estimated that 38 per cent more fuel would be used in the operation

of passenger trains within the terminal under the Arcade plan than under the Plaza plan. It is clear that the movement of trains and equipment into and out of the Arcade station over the proposed viaduct would be a much more expensive operation than would be encountered at the Plaza plan station.

10. *Period of construction.*—Applicants state that the Arcade plan could be carried out within a period ranging from 18 months to two years. Completion of a union station at the Plaza would necessarily take somewhat longer, because of the necessity of first making detailed plans. There might be further delay as a result of litigation. Three years would probably be required to carry out the Plaza plan.

11. *Elimination of Pacific Electric grade crossings.*—The operation of Pacific Electric cars and trains on the city streets now creates a more hazardous if not a more inconvenient condition than any caused by the operation of steam trains at grade. As indicated, if the Southern Pacific-Salt Lake plan is approved, the Pacific Electric will construct an elevated road from its Sixth street station to the east bank of the river and to its right of way at Fourteenth street. Such construction would make possible the elimination by this carrier of 16,199 daily grade crossing movements at some 56 intersecting or connecting streets. The same construction would be possible under the Plaza plan, though not so probable, as arrangements would have to be made for the Pacific Electric to obtain the necessary right of way on the east bank, and such construction would divert most through trains from the Plaza location. The retention of the Aliso street line at grade would perpetuate numerous

grade crossings, though it would be possible to construct an elevated line from the river at Aliso street or from the proposed Plaza station at Aliso street down San Pedro street to the elevated line paralleling Sixth street. In brief, under the Arcade plan the Pacific Electric grade crossings would be greatly minimized within a reasonable construction period. Its right of way from Main street to the river is now 90 per cent complete. Under the Plaza plan similar elimination could be had though not now provided for, but its accomplishment would probably be longer delayed.

Financial Ability of Carriers.

The Southern Pacific plans to finance its portion of the costs of the Arcade project as set forth in the applications out of current funds, without the present issuance of securities. Later it may seek our approval to capitalize the investment. Similarly the Salt Lake intends to meet its portion of the cost of such plan out of current funds or out of advances made from time to time by the Union Pacific Railroad Company or the Oregon Short Line Railroad Company, or both, which together own the entire capital stock of the Salt Lake. Subsequently, the Salt Lake or its controlling carriers may ask approval for the permanent financing of such expenditures, together with others made in recent years.

Income balances of defendants transferred to profit and loss are as follows for the calendar years enumerated:

Carrier	Balance
Southern Pacific Company:[1]	
Year 1921	$27,521,526.98
Year 1922	24,902,729.72
Year 1923	30,012,397.42
Santa Fe:[1]	
Year 1921	19,303,898.33
Year 1922	18,627,018.71
Year 1923	21,778,539.31
Salt Lake:	
Year 1921	[2]1,266,117.27
Year 1922	[2]1,323,676.48
Year 1923	937,165.56

[1]The Southern Pacific charges its dividend payments to profit and loss, while the Santa Fe charges them to income.
[2]Loss.

Of the Southern Pacific figure for 1921, approximately $26,000,000 arose through the disposition of oil properties. In 1922 the Santa Fe received $17,000,000 in a settlement with the United States Railroad Administration.

None of the three carriers has any outstanding notes payable. The current assets of the Southern Pacific include $17,000,000 in cash; of the Santa Fe, $25,000,000; and of the Salt Lake, $315,000. The investments of the Southern Pacific include about $30,000,000 in government bonds, and of the Santa Fe some $32,000,000 in government bonds and notes. The Salt Lake suffered deficits in 1921 and 1922, but appears to be growing stronger. Its stocks and bonds are all owned by the Union Pacific or affiliated companies, and are not on the market. The Union Pacific has no notes outstanding, owns $38,000,000 of government bonds and other government securities and has cash assets of $12,000,000. The Southern Pacific, Santa Fe, and Union Pacific have been in a strong financial condition since 1917, and are now in such a condition.

Their bonds are selling on favorable terms, and their stocks command a good price. The record indicates that neither the Southern Pacific nor the Santa Fe would experience any financial embarrassment if called upon to finance a capital expenditure of $10,000,000 for new passenger-terminal facilities in Los Angeles, and that the Union Pacific would not experience any such embarrassment in assisting the Salt Lake to bear its share of a union passenger terminal development entailing such a cost. At the argument counsel for applicant stated that any order we might enter in these proceedings would not impair their financial ability to perform their duty to the public.

An offer by a former owner of lands in the Plaza district to finance a union depot if built in that section was received at the hearing.

SUMMARY.

The service afforded by each of the present passenger stations of the Salt Lake and the Santa Fe is unreasonable and inadequate, and those carriers are under the immediate necessity of, and contemplate, expending considerable sums of money in providing reasonable and adequate facilities in lieu of those now owned and used. The clearly established necessity of eliminating from Alameda street all railroad train service, except industrial freight-switching service, is undisputed. Such elimination of train service will force the Southern Pacific to provide other means of access to its Arcade station or to abandon that station and provide other facilities in its stead. Either course will be attended by the expendi-

ture of substantial amounts of money. The carriers named can provide reasonable and adequate station facilities and the expense involved will not impair their ability to perform their duties to public. This brings us to a resume of the advantages and disadvantages of the various plans for station facilities hereinbefore detailed.

The Arcade plan for a joint station for the Southern Pacific and Salt Lake, proposed in Finance Docket No. 3569, makes no provision for the Santa Fe and leaves it to provide separate facilities for itself. This plan has certain advantages and is subject to certain decided objections. The terminal planned would doubtless be adequate for the Southern Pacific and Salt Lake for a number of years, and any separate station which the Santa Fe might erect would doubtless be adequate for its needs and those of the public. Aggregating the separate Arcade station and a Santa Fe station, their accessibility by vehicles, street-car lines, and interurban lines is poor, though the Arcade station alone is not so deficient as respects street and interurban car lines. Considering the convenience to passengers and in the handling of baggage, mail, and express, the Arcade plan with separate Santa Fe station would be deficient. Segregation of passenger and freight routes on opposite sides of the river would not be possible under the Arcade plan as proposed. This objection standing alone is not serious, but the segregation would be preferable. The Arcade station would act as a barrier to vehicular traffic between the industrial district and the business district at Fifth street. To an appreciable extent the proposed arrangement would retard the movement of traffic at Fourth and Sixth streets and

possibly at Third street. The depression at Sixth street would affect travel on Alameda street.

Separate stations at the Arcade and Santa Fe sites do not fit in well with the civic plans of the city. The new money cost of terminal facilities would be approximately $4,500,000, and the total investment $10,500,000. To this should be added the cost of additional approach tracks as they become necessary. With only the Southern Pacific and the Sale Lake using the Arcade station, the full increase to four complete approach tracks would probably not become necessary for years, although some expansion might be needed in the not distant future. The operation of trains on a long viaduct and into the Arcade station on a descending curve, together with the necessity of maintaining coach yards and engine terminals at a considerable distance from the station, are undesirable, and will necessarily result in greater expense than would be incurred under a more desirable layout. Probably two years would suffice to complete erection of necessary facilities if the Arcade plan were approved. Numerous Pacific Electric grade crossings could be eliminated economically and expeditiously following approval of the Arcade plan.

Though applicants stated that the Arcade station plan could conveniently include the Santa Fe, they have made no provision for its inclusion, and the Santa Fe is unwilling to participate in the use of such a station. We do not have the details of such changes in the proposed facilities as would be necessary, or their costs. Such use of the station would apparently remove in various degrees several of the substantial disadvantages incident to the Arcade plan as proposed, although others might be intro-

duced thereby. With sufficient approach tracks the Arcade station could accommodate all three lines for a number of years. Though four complete approach tracks might not have to be provided immediately, some partial expansion of the proposed approach arrangement likely would be necessary, and probably at the start the viaduct should be built to accommodate four complete approach tracks. The narrowness of the site makes the Arcade station particularly dependent upon ample approach facilities.

Inclusion of the Santa Fe would improve the accessibility of the passenger facilities. A union station at the Arcade site would not be as accessible to vehicular traffic as either of the Plaza plans, and would be a little inferior as respects street car service. As respects interurban lines, the relative accessibility of union stations at the Arcade and Plaza sites depends largely upon what changes are made in the lines of the Pacific Electric and in the manner of operating its trains into and out of the city. The advantage in this respect would seem to lie with a union station at the Arcade site. This does not attempt to pass upon the relative merits of different terminal arrangements for such interurban lines.

As respects the convenience to passengers which would flow from a unification of terminals, a union station on the Arcade site would be as good as one at the Plaza, and in handling baggage, mail, and express would probably be more convenient.

The possibility of segregation of passenger and freight routes is greater under an Arcade union plan than under any other that has been presented. The net new money

cost of an Arcade union terminal based on the provision of a four-track approach and appropriate facilities would approximate $5,000.000,[11] and the total investment $11,000,000. Assuming only a partial expansion of the approach-track arrangement for the present the new money cost would probably not greatly exceed $3,500,000 and the total investment $9,500,000. The expense of operation would probably be somewhat greater under this arrangement than under the others. The other advantages and disadvantages of a joint station at the Arcade site would obtain with respect to an Arcade union station also.

Any union station erected in the Plaza district would be easily accessible from the main lines of the three steam roads, would be adequate to handle all their present traffic and would admit of ready and relatively inexpensive expansion as traffic developed. The accessibility by interurban lines would not quite equal that of a union station at the Arcade site. Except with respect to the collection and distribution of express matter, unification of passenger-terminal facilities at the Plaza would provide all the conveniences for the public afforded by a union Arcade station. If a union station were built at the Plaza, segregation of passenger and freight routes on opposite sides of the river would not be possible. Though segregation would be preferable, this would not be a serious objection. If an east-bank freight line were provided as in applicant's plan the passenger and freight routes could be so arranged as to prevent serious interference between cross lines of high-density passenger and

(11) Including $500,000 for necessary changes in the Santa Fe facilities and deducting the value of its site.

freight traffic. Except with respect to the station-approach bridge over Alameda street and the high viaduct for vehicular traffic across the river at Aliso street, a union station under the Plaza plan would not introduce bad crossing situations. It would not act as a barrier to traffic between sections of the city. The importance of Alameda as a trucking street to the industrial district would diminish if the Southern Pacific should cease to maintain its freight station adjacent to the river station yards.

A union station at the Plaza would harmonize with the civic plans and desires of the city. If a union station were built at the Plaza under substantially the plan presented by the California Commission, the new money necessary to be raised, less the value of property released from passenger service, would be about $5,500,000. The total investment in passenger facilities under the Plaza plan would approximate $9,500,000. If consideration be taken of the acquisition by the Southern Pacific of the so-called Hanchett lands, about 25 acres of which would constitute approximately two-thirds of the Plaza station site, the new money cost would be reduced to approximately $3,500,000, and the total investment possibly increased to $12,000,000.[12]

Unification of passenger-terminal facilities at the Plaza could be arranged so as to result in certain operating

(12) The new money cost specified is computed on the basis of deducting as the value of such portion of the station grounds about one-half of the total cost of station lands as hereinbefore determined. The total investment figure just named is determined upon the assumption that the cost of the Hanchett lands to the El Paso & Southwestern was as stated upon argument by counsel for the Southern Pacific, and that the portion thereof necessary for Plaza station grounds should be assigned a proportionate cost of $4,500,000. In using this latter figure we make no assumption as to its reasonableness or propriety.

economies, but the extent thereof does not appear upon the record. With coach yards as planned for the Southern Pacific and Salt Lake and the existing Santa Fe coach yards, the expense of operation might be somewhat less than under the Arcade plan. Three years would probably be necessary to complete construction under this plan. If the Plaza plan rather than that proposed by applicants were carried out, the elimination of Pacific Electric grade crossings would be delayed, for the reason that there is no specific plan therefor in connection with the Plaza project.

It is clearly inferable from the record that the Santa Fe does not consider the Arcade site ample in size for the most convenient handling of the trains of all three carriers, and that so far as it is concerned operation into the Arcade station would be highly unsatisfactory. The Arcade site could be expanded by closing or deflecting important streets or by elevating the station yard. Assuming such expansion, the expenses of an Arcade station, either joint or union, would be considerably greater than for equally adequate facilities under some other plan. Adequate and convenient union passenger-terminal facilities can be provided in the Plaza area at a considerably less net new money cost than less adequate and convenient facilities under applicants' Arcade plan, and for approximately the same net new money cost as a union passenger terminal of more questionable merit on the present Arcade site.

In view of the right of the State, under the qualifications noted, to determine with respect to various plans for union-terminal facilities the question of adequacy and reasonableness, without clear basis we will not override

the determination of its authorities in that regard. The official commitment of the city in favor of a union station in the general area of the Plaza is also entitled to weight on the question of public convenience and necessity. If, upon investigation, it appeared that the State authorities were making unreasonable demands or placing undue burdens upon interstate carriers to the impairment of their ability to perform their duties to the public, it would clearly be our duty under *R. R. Comm. v. Southern Pacific Co., supra,* to refuse our consent to the consummation of the project. But where, as here, it appears that the carriers of their own necessities will in any event shortly expend considerable sums for adequate station facilities, and that after fair and painstaking investigation the State authorities have selected a general site as that required by the public convenience and necessity whereon for substantially the same amounts the carriers can provide adequate and convenient union-station facilities, we think the determination of such authorities should be entitled to considerable weight. The order of the Railroad Commission of California did not specify any particular site within the general area defined nor require a particular plan to be followed. The order required that the defendants submit plans for approval and, when approved, to build in accordance therewith. The defendants at no time made any effort to comply with the order. When the general outlines of the plan are formulated, a spirit of willingness to do and cooperate on the part of all concerned—carriers, city and State—will overcome many obstacles which now loom large. The record contains some reference to monumental stations and civic pride. The law aims to provide an adequate transportation sys-

tem with adequate and convenient facilities, and not to burden that system with facilities much more than adequate, or designed less to meet the reasonable requirements of the public than demands based chiefly on aesthetic considerations or advertising value. If such elements are to be provided for in measure beyond that incidental to reasonably adequate and convenient facilities of a character appropriate to the city served, the added expense may not be forced upon the carriers.

For orderly procedure it appears preferable that appropriate certificates in connection with the proceedings now before us should be issued subsequent, rather than prior to, the making of an order by state authority, but that the securing of favorable action on our part be made a prerequisite to the effectiveness of any state order. Such a procedure would enable us to pass upon a specific proposal and obviate the semblance of consenting in advance to construction the extent and expense of which could only be surmised. We think the expression of the Supreme Court in *R. R. Comm v. Southern Pac. Co., supra,* at page 346, to the effect that our certificate is, in the instances therein specified, "a condition precedent to the validity * * * of any order by the State Commission," is not inharmonious with these views.

Findings.

Upon a consideration of all the facts of record we find:

1. That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific

on Alameda street from College street to East Fifteenth street, inclusive, in the city of Los Angeles, Calif.

2. That neither the present nor future public convenience and necessity require or will require the construction or extension by applicants of new or existing main lines of railroad in the city of Los Angeles, Calif., as described in the application in Finance Docket No. 3569.

3. That the present and future public convenience and necessity require and will require *(a)* the extension by defendants of their respective main lines of steam railroad in the city of Los Angeles, Calif., so as to reach and properly serve any union passenger station and terminal within that portion of said city bounded by Commercial street, North Main street, Redondo street, Alhambra avenue, and the Los Angeles River, which they or any of them may construct and establish in accordance with a lawful order of the Railroad Commission of California, and (*b*) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal.

4. That the extensions referred to in the preceding paragraphs are reasonably required in the interest of public convenience and necessity, and that the expense involved therein will not impair the ability of defendants to perform their respectice duties to the public.

5. That, in addition to the abandonment of service on Alameda street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respec-

tive main lines of steam railroad in the city of Los Angeles, Calif., or of the operation of all or any portion of the present interstate train service thereon as may be incidental to the rearrangement of passenger and freight routes, of tracks and of terminal facilities, made necessary or proper in connection with the construction and establishment by defendants, in accordance with a lawful order of the Railroad Commission of California, of a union passenger station and terminal within that portion of said city described in paragraph 3 above.

6. That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the city of Los Angeles, Calif., as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station and terminal as defendants or any of them, in accordance with a lawful order of the Railroad Commission of California may construct and establish in that portion of said city described in paragraph 3 above, is in the public interest and is practicable, without substantially impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

An order will be entered denying the appplication in Finance Docket No. 3569. We are not advised what action, if any, the Railroad Commission of California will take in connection with these matters, and under the existing circumstances we will issue no certificates or further orders at this time. We will retain jurisdiction of No. 14,778 and Finance Docket No. 3556 for the purpose of making such further findings and orders and issuing such certificates as the record warrants. The find-

ings and order now made are based upon the present record and upon the plans presented to us. If, in the development of a union passenger terminal plan, the carriers or the Railroad Commission of California evolve a plan considerably more extensive than, or materially different from, a plan for a station within the Plaza area as here considered to be in the public interest, our ultimate findings as to the public convenience and necessity, and as to impairment of the carrier's ability to handle their own traffic and to perform their duties to the public, will of course be based upon a consideration of those facts rather than upon the present record.

HALL, *Commissioner*, dissenting:

I am not prepared to take part in selection of sites and approval or disapproval of plans for railway structures, whether bridge, tunnel, or terminal, all over this broad land. I find nothing in the interstate commerce act which lays upon us any such duty. Certainly no one who participated in framing the provisions of that act as to certificates of public convenience and necessity had union stations in mind. If he had, he was an adept in the use of language to conceal thought.

In these proceedings we have before us an application and a complaint.

The application is by two carriers who seek from us a certificate of public convenience and necessity to the extent that it may be requisite for developing the passenger station of one into the joint station of both, with such extension or construction of line and abandonment of other line as may be appropriate to that end.

The complaint is by Los Angeles, and in effect, by the State Commission. They allege no violation by the

defendant carriers of any provision of the interstate commerce act. Possibly their complaint should be regarded as an application under paragraphs (18) to (20) of section 1, although I do not think so. Ostensibly it is a complaint under paragraph (21). This distinction at least may be drawn between the application and the complaint; whatever their nature or their sufficiency in other respects; the carriers, as instrumentalities of interstate commerce, seek such authority as we may grant under these paragraphs to enable them to do something. That "something" is to make their transportation facilities and service more nearly adequate for the needs of the public using them.

The complainants come here for such authority as they may need, not to do something, but to require the carriers to do something. That "something" is to construct and maintain a union passenger station, which none of the carriers wants, on a site not of their selection, reached by none of their rails. Neither the city nor any civic body or citizen offers or proposes to contribute anything in land or money to that end. If this complaint be an application under paragraphs (18) to (20), how shall we construe the lack in those paragraphs of even a hint at compulsion? They provide for restraints, or permissions, or both. It is only in paragraph (21) that the power to require appears, and there it is confined to car service, as the term is used in the act, and to extension of carriers' lines.

I am in accord with the construction placed on these paragraphs by the majority report. I merely stress the difference in attitude of the applicants and the complainants before noting my first ground of dissent. This

is that the application of the carriers, the only parties before us who propose to do something, is denied.

Plainly they propose a better service than they now afford to the traveling public, a better utilization of property already dedicated to that service. It is their right and their duty to do both without authority from us. But to secure the full benefit of their proposal extension of some main line and abandonment of other main line is necessary. For that they are here. Why should we deny them? We would not if the complainants were not here also. I submit that carriers serving the public with property already devoted to that service should not be restrained from bettering their service because others charged with no such responsibility devise or approve or prefer plans for a substituted service on property which the carriers must go out and acquire at cost in excess of value.

Incidentally the carriers' proposal includes elimination of practically all grade crossings of the Pacific Electric lines in Los Angeles. That feature alone is a contribution to public safety and convenience, if not necessity, which merits and receives the hearty approval of everyone concerned in these proceedings.

My second ground of dissent is the grant, in so far as here made or forecast, of certificates of public convenience and necessity for a union station and for such extension of lines and disuse of other lines as may be incident to its construction and use. There is no magic in unification of passenger terminal facilities. There may be detriment to the traveling public far outweighing the anticipated benefit to Los Angeles, and our concern is, or should be, for the public served rather than for the fruition of civic plans.

Los Angeles is even greater in area than in population. Must those who come and go by rail all pass through one gate or may they have their choice of several? The record, as reflected in the report, gives no convincing answer to this question. The public convenience, the public necessity, both are to be considered and served if and when our certificates issue in respect of matters within our competency. The union station is not essential to a civic center, as experience has shown. Without entering into details of the Plaza and other plans, it may be noted that the present estimates call for investment of many millions of carrier earnings in property on which no earnings will ever be made, deprive the carriers to that extent of resources now available in time of need, and render useless for carrier purposes the terminal properties in which their investment was long since made on a lower basis of cost.

Any requirement by public authority that carriers invest their capital or earnings in unproductive property beyond what is clearly needed for performance of their public service is a requirement which lessens their ability to properly serve the public. It would seem that the new outlay, by utilization of aerial rights over the station properties or otherwise, could be made to yield compensating return and that the city and the carriers might and should work out in friendly cooperation some satisfactory solution of the problems here presented.

I am authorized to state that Commissioner Cox joins in this dissent.

Commissioner Woodlock did not participate in the disposition of this case.

Appendix 1.

Lines of Railway of the Defendant Carriers.

The coast and valley routes of the Southern Pacific Railway connecting Los Angeles with San Francisco and the Sacramento and San Joaquin valleys, unite at Burbank, about 12 miles north of the Los Angeles station, and extend southerly along the east bank of the Los Angeles River to its juncture with the Arroyo Seco, which drains the territory to the northeast in the vicinity of Pasadena. Here the line crosses to the west bank of the river, and continues southerly along it to the North Broadway viaduct. Passing under the viaduct the line leaves the river and proceeds southwest along North Spring street to the northern end of Alameda street, thence southerly along the latter street to the Arcade passenger station just west of Alameda street between Fourth and Sixth streets. The Sunset or El Paso route approaches from the east and crosses the Los Angeles River along Alhambra avenue and turns south into Alameda street at North Main street, a short distance south of the north end of Alameda, and proceeds southerly from thence to the station as do the trains from the north. South of the station the Southern Pacific occupies Alameda street to the southerly boundary of the city with its line to San Pedro and Santa Ana.

The Southern Pacific has three principal freight yards at Los Angeles. The new classification yard adjoins its main line east of the river and north of the Arroyo Seco, its Midway yard parallels the main line on the west bank of the river between the Arroyo Seco and the North Broadway viaduct; and the River station yards are northwesterly of and parallel with the main line along North

Spring street between the North Broadway viaduct and the north end of Alameda street. The Southern Pacific coach yards are on Alameda street near Seventh street, and its engine terminals on the east bank of the river just south of Alhambra avenue. Freight from north of Los Angeles destined through for points east moves from the yards southwesterly along North Spring street to Redondo street and thence turn easterly into Alhambra avenue.

The main line of the Atchison, Topeka and Santa Fe from the east through Pasadena follows the Arroyo Seco and crosses to the west banks of the Los Angeles River just north of North Broadway viaduct. Passing under, it proceeds southerly along the west bank of the river across Alhambra avenue and Macy and Aliso streets at grade to its station just south of First street. For most of the distance south of Alhambra avenue the passenger line is a little distance from the river. This results in the Santa Fe maintaining two grade crossings at Macy street and two at Aliso street. An alternative route from San Bernardino, used principally for eastern freight because of more favorable grades, joins the San Diego line at Fullerton, and enters the city from the southwest. This line crosses the river south of Butte street and follows north along the west bank of the river to the station. A local line from Redondo and San Pedro joins this line near Butte street. The principal Santa Fe freight yards lie along the west bank of the river between First and Sixth streets, but this carrier has a partially developed freight yard east of Los Angeles near Hobart station. Its coach yards lie between Seventh and Ninth streets, and its engine terminals just north of Butte street, along the west bank of the river.

The main line of the Los Angeles & Salt Lake, herein termed the Salt Lake, enters the city through Hobart from the southeast, and proceeds north up the east bank of the river from Alosta street to its station at First street. One local line continues on up the east bank of the river, passes under the North Broadway viaduct, and follows up the Arroyo Seco to Pasadena. A branch of this line crosses the Arroyo Seco and teminates at Glendale, a suburb about six miles north of Los Angeles station. Another local line from the south serves Long Beach and San Pedro and joins the main line between Hobart and the river. The present Salt Lake freight yards lie along the east bank of the river south of First street to Seventh street. Its coach yards are south of First street and its engine terminals just north of Fourth street. This carrier is constructing new shops, roundhouses, classification yards, and fuel facilities at Hobart Junction, about three miles southest of its present depot and about four miles from the Southern Pacific depot. The Salt Lake has a spur which leaves the main line between Hobart and the river and proceeds west across the river and along Butte street to a connection with the Southern Pacific line at Alameda street.

Appendix 2.

Outline of Various Station Plans Presented.

The Sachse Plan.—Under this plan the station would be of the stub-end type, and with its new plaza would occupy a site near the north end of Alameda street adjoining Main street on the west, Commercial street on the south, and San Pedro street extended on the east. The station building or head house would face south at the

north end of Los Angeles street, and the station tracks would extend north to a connection with the Redondo street wye. Southern Pacific trains from the north would enter the station over the present tracks past the River station freight yard, and those from the east by way of Alhambra avenue, as at present; Santa Fe and Salt Lake trains from Pasadena would be brought in over the Southern Pacific tracks past River station yard by means of connections near the North Broadway bridge. Salt Lake and Santa Fe trains entering the city from the south would proceed up the west bank of the river and reach the station over the tracks on Alhambra avenue.

As recommended to the Railroad Commission by its engineers, the larger plan made provision for the construction of a subway along Main street for the Pacific Electric from its station at Sixth street to the station at the Plaza and for some distance beyond to connect with present or prospective rapid transit lines to the east. The Pacific Electric is an extensive interurban system. It crosses many busy streets in Los Angeles at grade. The larger plan also contemplated the use of the River station freight yard for a union coach yard, and for the provision of necessary freight yards in lieu thereof north of the Arroyo Seco. Defendants severely criticised this feature. The same coach-yard arrangements as is contemplated under the Arcade plan would be practicable under either the Sachse station plan or the larger plan. To carry out the comprehensive project would require that some 65 acres of private property be condemned, and 19.5 acres of streets be closed. The improvements on this area are for the most part old, and many are poorly constructed, but some are substantial structures. The city charter,

unless amended, would not permit the construction of a subway along Main street. Due to the scope and completeness of the larger plan, the cost of carrying it out would be considerably greater than the cost of effectuating applicants' proposal. Because of its relation to the comprehensive plan, the cost of a union station under the Sachse plan would also doubtless exceed the minimum amount necessary to erect a union station in the Plaza area defined in the State Commission's order. Apparently for this reason and the possibility of confusion with the larger plan, complainants did not, upon the hearing of the consolidated cases or on brief, stress the comparative merits of the Sachse union station plan.

The Plaza Plan.—The site contemplated under the Plaza plan covers about 38 acres in the southerly portion of the area east of Alameda street, north of Aliso street, south of Macy street, and west of the river. The station would be of the stu-end type. The depot would front on Alameda street and would face the Plaza. Alameda street would be relocated a little to the west just in front of the station grounds and the Southern Pacific tracks thereon be permitted to remain. The station tracks would extend easterly to the river to a point near Commercial street. A double-track viaduct to carry Aliso street and the Southern Pacific-El Paso line over the river would be constructed somewhat south of Aliso street as at present. Vehicular traffic and the Pacific Electric would occupy the upper deck. Passenger trains coming down the river from the vicinity of the Arroyo Seco and those coming up the river from the vicinity of Butte street would follow the west bank to the station turnouts near Aliso street. Under this plan no provision is made for joint coach-yard

facilities. Presumably the carriers would follow the same arrangement as with respect to the Arcade plan.

The station building would be 400 feet long, 120 feet wide, and 60 feet high, with the upper floor substantially on a level with the Plaza, and reached by a bridge over Alameda street. The lower floor would be level with Alameda street and accessible for taxicabs and autos. A concourse 400 feet long, 50 feet wide, and 20 feet high would be reached from both floor levels by means of ramps. It would be 4.5 feet below the level of the upper floor and 8 or 13 feet above the Alameda street level, depending upon whether impaired or full clearance were allowed under the bridge across Alameda street. The station tracks at the concourse would be elevated 8 feet above Alameda street, and would be on a level with the concourse in the case of impaired clearance, or 5 feet below it in the case of full clearance. The bridge across Alameda street would be supported by steel columns dividing the street into three parts. The middle portion, 30 feet wide from center to center of columns, would provide for the double-track line of the Southern Pacific. The side portions would be 33 feet from center of columns to property line and would each give room for a 22-foot roadway and sidewalk.

The station yard would have 15 tracks ranging in length from 1000 to 1300 feet, and would readily admit of expansion. There would be a double-track approach over the Aliso street bridge and also from the north and south on the west bank of the river. The throat of the yard would have 5 tracks. At present it is practically a level grade from the river bank to Alameda street, but the 8-foot fill at the station and the depression of the river-bank tracks

in connection with the proposed river viaduct program would result in a grade of approximately 0.5 per cent on the station tracks and compensated grades of 1.24 per cent on the tracks to the Aliso street bridge, and 0.94 and 1.3 per cent, respectively, on the north-and-south wye tracks connecting the throat of the yard with the tracks on the west bank of the river. If the plan for depressing the river-bank tracks were modified by making the elevation at the Aliso street bridge about the same as at the throat of the station yard, the compensated grades on the north leg of the wye and the tracks to the bridge would approximate 0.5 per cent and on the south leg of the wye 1.13 per cent. This would increase the grade on the river-bank tracks between the south leg of the wye and First street from 0.485 to 0.665 per cent. The curvature on the north leg of the wye is 13°, and on the south leg 12° 30'. An interlocking plant would be located adjacent to the Aliso street bridge near the west-bank tracks.

Under this plan only industrial switching service would remain on Alameda street. The balance of the Southern Pacific freight traffic would be diverted to the river banks. Abandonment of small portions of Lyon and Vignes streets near the throat of the station yard would be necessary. Complainant has indicated its willingness to abandon such streets as may be necessary for the construction of any union station in the Plaza area.

The Arcade Plan Proposed by Applicants.—The Arcade station site and depot building have been described in the report. Under applicants' plan all eight of the present station tracks save one would be stubbed at Fourth street, the northern end of the yard, and four additional station tracks added. The tracks would range in capacity from

10 to 20 cars and would have an average capacity of 16 cars. The remaining track across Fourth street would furnish access to the railway-mail post office, the express yard, a plant of the Los Angeles Ice and Cold Storage Company, and would connect with the Alameda street tracks at Third street. As at present, access to trains would be by means of a subway under the station tracks, with ramps to the umbrella sheds and station building. From the south end of such sheds the station tracks would be gathered into the two-track throat near Sixth street. A spur from the east side of the yard would connect the throat with the Alameda street tracks. In order to secure a separation of grades, the station yard would be graded up on a 1 per cent grade from the present umbrella sheds toward the viaduct at the south end of the yard, and Sixth street and Alameda street would both be depressed five feet.

From the south end of the station yard the viaduct would extend across Sixth street on a 10° curve and turning eastward would cross Alameda street a short distance south of its intersection with Sixth street. From thence it would continue east, south of and parallel to Sixth street, to the west bank of the river. The grade on the curved viaduct mentioned would be a compensated grade of 1 per cent. The viaducts would be ballasted deck structures on concrete pillars or columns, with 20-foot spans between streets and clear spans over principal street crossings. From the west bank of the river curved bridges would extend to the Salt Lake right of way across the river, one to the north and one to the south. From the north end of the northerly curved bridge the track would descend to grade. Connections would be provided

with the Southern Pacific-El Paso line at Alhambra avenue and with its main line from the north on the east bank of the river north of the Arroyo Seco. The Salt Lake line to Pasadena and Glendale would have access to the station in similar manner. The southerly curved bridge would continue south along the east bank as an elevated structure, pass over Seventh street and reach grade near Ninth street. Connection with Alameda street and the Southern Pacific line from the south would be by means of the Butte street bridge reached by a curved track on the east bank. Salt Lake trains from the east and south would reach the station over the southerly curved bridge also. Under this plan only night switching of freight for industries would remain on Alameda street. The track along Alameda street would be cut near Sixth street and freight from the River station yard for industries on Alameda street south of Sixth street would move east on Alhambra avenue to the east bank of the river and thence to Alameda street by way of the Butte street bridge. The Southern Pacific intends, if the applications are granted, to relocate its coach yards adjacent to its shop grounds on the east bank of the river south of Alhambra avenue. The Salt Lake will have it coach yards at Hobart.

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington D. C., on the 6th day of July, A. D. 1925.

Finance Docket No. 3569.

In the matter of the application of the Southern Pacific Company, Southern Pacific Railroad Company, and the Los Angeles & Salt Lake Railroad Company for a certificate of public convenience and necessity.

Investigation of the matters and things involved in the above-entitled proceeding having been had, and the said Commission having, on the date hereof, made and filed a report containing its finding of fact and conclusion thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the application herein be, and it is hereby, denied.

By the Commission.

[SEAL] GEORGE B. MCGINTY,
Secretary.

SECOND LOS ANGELES UNION STATION DECISION OF SUPREME COURT OF THE UNITED STATES.

INTERSTATE COMMERCE COMMISSION,
Petitioner,

vs.

UNITED STATES OF AMERICA, at the Relation of City of Los Angeles (a municipal corporation),
Respondent.

(280 U. S. 52.)

Decided November 25, 1929.

On Writ of Certiorari to the Court of Appeals of the District of Columbia, to review a judgment reversing a judgment of the Supreme Court of the District of Columbia dismissing a petition for a writ of mandamus to compel the Interstate Commerce Commission to consider whether it should make an order directing certain railroad companies to build and use a union passenger station. Reversed.

See same case below,—App. D. C.—34 F. (2d) 228.

The facts are stated in the opinion.

Mr. Chief Justice TAFT delivered the opinion of the Court.

By petition filed July 12, 1928, respondent sought from the Supreme Court of the District of Columbia a writ of mandamus compelling petitioner, the Interstate Commerce Commission, to consider the evidence introduced in the proceeding before it known as *Los Angeles Passenger Terminal Cases*, 100 I. C. C. 421; 142 I. C. C. 489, for the

purpose of determining whether the Commission shall order the Atchison, Topeka & Santa Fe Railway Company, the Southern Pacific Company, and the Los Angeles & Salt Lake Railroad Company to build and use an interstate union passenger station in the City of Los Angeles, California; and after consideration of the evidence, to make such order therein as the facts may require. The Supreme Court of the District dismissed the petition. The Court of Appeals reversed its judgment and remanded the cause for further proceedings. 34 F. (2d) 228. This Court granted a writ of certiorari.

The Railroad Commission of that state had in 1921 (19 Opinion of the R. R. Com. of Cal., pp. 740, 937) ordered the carriers to file plans, etc., and to acquire sufficient land within what is known as the Plaza area in that city for a union passenger station and terminal, to submit plans therefor, and, upon their approval by that Commission, to proceed with the construction of the station. The carriers carried these orders by writs of certiorari to the Supreme Court of the state, and that Court, in *Atchison, Topeka & Santa Fe Railway Co. v. Railroad Commission*, 190 Cal. 214, held that by the Transportation Act of 1920 Congress had taken exclusive authority over the matter of a union interstate terminal depot, and the Court therefore denied the State Railroad Commission the jurisdiction which it had sought to exercise. The State Railroad Commission petitioned this Court for writs of certiorari and at the same time instituted proceedings before the Interstate Commerce Commission which resulted in the orders above referred to.

This Court granted a writ of certiorari and on April 7, 1924, rendered its decision in *Railroad Commission v.*

Southern Pacific Co., 264 U. S. 331, wherein, in affirming the judgment of the state Court, we held that the relocation of tracks, which was incidental to the proposed union passenger station, required a certificate of approval by the Interstate Commerce Commission under paragraphs 18 to 21 of Section 1, Interstate Commerce Act as amended by Section 402, Transportation Act of 1920 (41 Stat. 476, 478), as a condition precedent to the validity of any action by the carriers or of any order by the State Railroad Commission, and that until the Interstate Commerce Commission had acted under those paragraphs, the carriers could not be required to provide a new union station or to extend their main tracks thereto as ordered by the State Railroad Commission.

Pending the hearing of the causes in 264 U. S. 331, the direct proceeding, referred to above, was instituted before the Interstate Commerce Commission by the City of Los Angeles, asking for an order by the Commission requiring the three railroads to build a new union station at the Plaza site. With it were consolidated an application by the Southern Pacific Company for authority to abandon certain main line tracks and the operation of passenger and freight train service on Alameda Street, and an application by the Southern Pacific and the Salt Lake for authority to construct new, and to extend existing, lines.

The Commission held, 100 I. C. C. 421, that it was without authority to require the construction of the new union station. It said in the report, at page 430:

"We conclude that we are not empowered to require the construction of a union passenger station as sought in No. 14778. To make the record clear, we repeat that no question of discrimination or preference is presented

here and that under the issues framed in the complaint in No. 14778 we will give no consideration to matters shown of record for the purpose of determining whether we should issue an order *requiring* the construction and use of a union station by any of the defendants."

The Commission, in order to facilitate dispatch in the disposition of the case, although it held that it had no power to require the building of an interstate commerce passenger station, made hypothetical certificates, which could be summarized as follows:

(1) That the public convenience and necessity require the extensions of lines that may be necessary to reach and serve any union passenger station within the plaza which may be constructed in accordance with a lawful order of the State Commission and that may be necessary to provide for the incidental rearrangement of passenger and freight routes, and that the expense involved will not impair the carriers' ability to perform their duties to the public. (2) That public convenience and necessity permit the abandonment of train service on Alameda Street and such other abandonments of lines as would be necessary in connection with the establishment of any such station, so lawfully ordered by the State Commission. The report further found that such joint use of track or other terminal facilities as may be incidental and necessary to the proper operation of any such union station is in the public interest and is practicable, without substantially impairing the owning carriers' ability to handle their own business. As to the application by the Southern Pacific and Salt Lake to extend their lines to permit the joint use of the Southern Pacific's existing station, the Commission's findings were unfavorable and its order de-

nied the application. The Commission's then report was not accompanied by certificates carrying out its findings, and it reserved jurisdiction to alter its findings in the event that the plan of the State Commission, as finally evolved, should be materially different from that "as here considered to be in the public interest."

After a further hearing in the direct proceeding instituted by Los Angeles for an order directing the erection of a union station the prayer of Los Angeles was denied. (142 I. C. C. 489.) Thereafter the City filed the petition above referred to in the Supreme Court of the District of Columbia for a writ of mandamus. This was in the present proceeding.

Attached to the petition as exhibits were the pertinent parts of the record in the previous cases. There were filed an answer of the Commission, and a demurrer to the answer. The Commission still adhered to its original report. The Supreme Court of the District entered a judgment overruling the demurrer and, the City electing to stand upon the petition, dismissed the petition. On an appeal, the judgment was reversed by the Court of Appeals of the District, which held, in substance, that the Commission was vested with supervisory control over the three carriers and that they were subject to an order requiring the construction of the union station and the necessary connecting tracks prayed for.

The sole question for decision is whether the Interstate Commerce Commission has jurisdiction to order the construction of the union station. This issue arises on provisions of the Interstate Commerce Act, 24 Stat. 379, as amended by the Transportation Act of 1920, 41 Stat. 456,

476-479. These are paragraphs 18 to 22 added to Section 1 of the Original Act, and paragraphs 3 and 4 of Section 3.

These paragraphs and sections of the Transportation Act of 1920 may be shortly stated as follows:

Paragraph 18 forbids the construction of a new line of railroad, or the acquisition or operation of any line of railroad or extension thereof in interstate commerce, unless there shall have been obtained from the Commission a certificate that the present and future convenience and necessity require or will require the construction or operation of such additional or extended line of railroad, and forbids any interstate carrier to abandon all or any portion of its line, unless there shall have been obtained from the Interstate Commerce Commission a certificate of public convenience and necessity.

Paragraph 19 requires notice and hearings in any proceeding to secure such certificate.

Section 20 gives the Commission discretionary power to issue such certificates and provides for an injunction at the suit of the United States for any construction, operation or abandonment of such line of railroad or extension thereof without a certificate, and punishes a violation.

Section 21 provides that after a hearing in such proceeding upon complaint, or upon its own initiative without complaint, the Commission may authorize or require by order any carrier by railroad subject to the act to provide itself with safe and adequate facilities for performing as a common carrier its car service, as that term is used in the Act, and to extend its line or lines, if the Commission finds that it is reasonably required in the interest of public convenience and necessity, and will not

impair the ability of the carrier to perform its duty to the public.

Section 3, embracing paragraphs 3 and 4, provides, in paragraph 3, that carriers shall afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines and for the receiving, forwarding and delivering of passengers or property to and and from their several lines and those connecting therewith and forbids discrimination.

Paragraph 4 provides that if the Commission finds that to do so will not substantially impair the ability of a carrier owning and entitled to the enjoyment of terminal facilities to handle its own business, it may require the use of any such terminal facilities of any carrier, including main-line track or tracks for a reasonable distance outside of such terminal, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the Commission may deem just and reasonable for the use so required, as if in condemnation proceedings.

In its final report the Interstate Commerce Commission held that it had no power to require the construction and operation of a union station upon the site specified. The Commission's report was in part as follows:

"Complainants have again raised the question whether we have power to require the defendants to construct and operate a union passenger station upon the site heretofore specified in our findings. Their contention that we have such power was pressed with vigor upon the original submission before us. The complainants point to section 3,

paragraphs 3 and 4 of the interstate commerce act as furnishing the necessary statutory authority. As stated in the original report, at page 430, we concluded that we are not empowered to require the construction of a union passenger station as sought in No. 14778, under the issues framed in the complaint therein. * * * In Alabama & Vicksburg Ry. Co. v. Jackson & Eastern Ry. Co., 271 U. S. 244, 250, the Supreme Court said:

"'In matters relating to the construction, equipment, adaptation and use of interstate railroad lines, with the exceptions specifically set forth in paragraph 22, Congress has vested in the Commission the authority to find the facts and thereon to exercise the necessary judgment. The Commission's power under paragraph 3 of Sec. 3 to require the establishment of connections between the main lines of carriers was asserted by it in Pittsburgh & W. V. R. R. Co. v. Lake Erie, A. & W. R. Co., 81 I. C. C. 333, a case decided after the withdrawal by the Jackson & Eastern of its application to the Commission for leave to make the junction at Curran's Crossing, and in Chamber of Commerce v. Wichita Falls, R. & Ft. W. R. Co., 109 I. C. C. 81. That its jurisdiction is exclusive was held in People ex rel. New York C. R. Co. v. Public Service Commission, 233 N. Y. 113, 119-121. Compare Lake Erie, A. & W. R. Co. v. Public Utilities Commission, 109 Ohio St. 103.'"

The Commission proceeded:

"The distinction between a simple switch connection such as was contemplated by the cases previously referred to, and the elaborate facilities sought to be required by us in the present case, is obvious. Re-examination of the whole subject again leads us to the conclusion

that under existing law we are not empowered to require the construction of a union passenger station of the character sought by the complaint. * * *

"All issues of fact having been considered and concluded by our original report and this report on further hearing, nothing remains for us but to deny the application of the City of Los Angeles and the intervener, the Railroad Commission of the State of California, for a final order herein requiring the construction of a station as found in the public interest. * * *."

In weighing the effect of the Transportation Act, it should be noted that in this important measure affecting associations between interstate carriers of a compulsory character, there is nowhere express authority for the establishment of union passenger stations compulsory or otherwise. Emphasis is put on physical connection between the tracks of one carrier and others if permitted by the Interstate Commerce Commission and if properly paid for, either by agreement or condemnation, by the carrier enjoying the use of the track of the other companies. But it is limited in extent to connections with the terminals of other companies within a reasonable length. This Court said that the possible peril to interstate commerce in a physical connection between two main tracks "shows that the jurisdiction of the Commission over such connections must be exclusive if the duty imposed upon it to develop and control an adequate system of interstate rail transportation is to be effectively performed. Moreover, the establishment of junctions between the main lines of independent carriers is commonly connected with the establishment of through routes and the interchange of car services and is often but a step toward

the joint use of tracks." *Alabama & V. R. Co. v. Jackson & E. R. Co.*, 271 U. S. 244, 250.

The description in the *Alabama Railway* case, 271 U. S. 244, is that of a physical connection between railroads engaged in interstate commerce, but it contains no suggestion that the junction is to include union passenger stations.

There are cases in the state Courts in which by virtue of statutory provision railroads are required expressly to unite in a passenger station, if determined by Commissioners appointed by the Court or by a Railroad Commission. *Mayor and Aldermen of Worcester v. Norwich and Worcester Ry. Co.*, 109 Mass. 103, 113; *Railroad Commission of Alabama v. Northern Alabama Ry. Co.*, 182 Ala. 357; *Railroad Commission of Alabama v. Alabama Great Southern Ry. Co.*, 185 Ala. 354, 362; *Missouri, O. & G. Ry. Co. v. State*, 29 Okla. 740; *Chicago, R. I. & P. Ry. Co. v. State*, 90 Okla. 173; *State v. St. Louis Southwestern Ry. Co.* (Tex. Civ. App.), 165 S. W. 491, 199 S. W. 829, 930; but there is no Federal case in which is built up out of such words as those which we find in the Transportation Act of 1920 authority for requiring such a station.

Without more specific and express legislative direction than is found in the Act, we can not reasonably ascribe to Congress a purpose to compel the interstate carriers here to build a union passenger station in a city of the size and extent and the great business requirements of Los Angeles. The Commission was created by Congress. If it was to be clothed with the power to require railroads to abandon their existing stations and terminal tracks in a city and to combine for the purpose of establishing in

lieu thereof a new union station, at a new site, that power we should expect to find in congressional legislation. Such authority, if conferred in Los Angeles, would have application to all interstate railroad junctions, including the numerous large cities of the country, with their residential, commercial, shopping, and municipal centers now fixed and established with relation to existing terminals. It would become a statute of the widest effect and would enter into the welfare of every part of the country. Various interests would be vitally affected by the substitution of a union station for the present terminals. A selection of its site from the standpoint of a city might greatly affect property values and likewise local transportation systems. The exercise of such power would compel the carriers to abandon existing terminals, to acquire new land and rights of way and enter upon new construction, to abandon large tracts and to sell territory of the same extent as no longer necessary for the use of the carriers.

There would have to be tribunals to apportion the expenditures and cost as between the carriers. A proper statute would seem to require detailed directions, and we should expect the intention to be manifested in plain terms and not to have been left to be implied from varied regulatory provisions of uncertain scope. It would be a monumental work and one requiring the most extensive exercise of expert engineering and railroad construction. It would make possible great changes of much importance in the plans of every city and in the rearrangement and mutations of railroad property and public and private business structures everywhere. We find no statutory preparation for the organization of such machinery.

We cannot agree with the Court of Appeals of the District in its disposition to view Section 3, paragraph 3, as

vesting the Interstate Commerce Commission "with almost unlimited power in the matter of establishing terminals and union stations for the proper interchange of traffic between the converging interstate railroad lines." The words "reasonable, proper and equal facilities" are of course comprehensive enough to include not only trackage but terminal facilities described as extending a reasonable distance outside of the terminal, but hardly to give the Commission "unlimited power" in the building of union stations.

To attribute to Congress an intention to authorize the compulsory establishment of union passenger stations the country over, without special mention of them as such, would be most extraordinary. The general ousting from their usual terminal facilities of the great interstate carriers would work a change of title and of ownership in property of a kind that would be most disturbing to the business interests of every state in the country.

To recognize what is here sought as within the power of the Commission to order to be done in each of all the great cities throughout the United States and to sustain it as legal, without provision for effective restraint by the carriers, or other interests, would expose the community to possible abuse, with nothing but self-imposed restraint on bureaucratic extravagance.

When the interest of a great city in its improvements is to be promoted entirely at the expense of railroads that enter it, Congress would be expected to hesitate before it would change discretionary leave for the erection of such stations into positive command. In such a case the expenditure of a large amount of capital will not bring with it corresponding increase in the railroad revenues. If

Congress had intended to give an executive tribunal unfettered capacity for requisitioning investment of capital of the carriers and the purchase of large quantities of land and material in an adverse proceeding, we may well be confident that Congress would have made its meaning far clearer and more direct than in the present meager provisions of the Transportation Act. The suggestion of complainants is that out of provisions for local union of main tracks and switching tracks we should use our imaginations and develop them into provisions for giant union passenger stations. It is true that the railway systems may be united through switches and connecting tracks in physical connection, but this has not been held to justify great monumental structures, extended in their complicated machinery and superficial extent and expense. There is a difference of real substance between such connecting tracks and switches and junctions and a metropolitan union passenger station. The latter calls into being a new entity naturally requiring new legislative authority. This Court, referring to a kindred matter, said of this case:

"But there is a great difference between such relocation of tracks or local union stations and what is proposed here. The differences are more than that of mere degree; they and their consequences are so marked as to constitute a change in kind." 264 U. S. 331, 346.

But it is said that we have already foreclosed the conclusion in this case by our opinion in 264 U. S. 331. The only issue there presented to this Court, was whether it was necessary to secure from the Interstate Commerce Commission its approval of the construction of a union station and the relocation of the connecting tracks proposed. The point in that case was the necessity for the

acquiescence by the Interstate Commerce Commission in respect to a union passenger station. We held such a certificate to be necessary before a union station or connecting lines of interstate carriers could be lawful. That is all we held.

It is quite true that we made references in the opinion to a case foreshadowed in the hypothetical certificates of the Commission in the building of a union station. Such references, had, however, not the slightest significance in respect to who could or should build the station, or whence its cost should be defrayed. It was as far as possible from the purpose of the Court in its opinion to indicate its views of the powers which the Commission could exercise adversely to the carriers in compulsory proceedings. They were not before the Court for adjudication.

In what situations, if any, action of the Interstate Commerce Commission may be controlled or corrected by mandamus need not now be considered, because it is apparent that there is here no meritorious basis for exerting such power, even if found to exist.

The judgment of the Court of Appeals of the District of Columbia is reversed.